

Contract No. 35-1400-2017-13 CATS Sys Doc ID: 021225-0000-0000

# PROFESSIONAL SERVICES AGREEMENT For MONEY MANAGEMENT PROGRAM

This Professional Services Agreement ("Agreement") is entered into as of July 1, 2016 (Effective Date) and will end on June 30, 2017, by and between the State of Delaware, Department of Health and Social Services, Division of Services for Aging and Adults with Physical Disabilities, ("Delaware"), and Easter Seals of Delaware and Maryland's Eastern Shore, (the "Vendor").

WHEREAS, Delaware desires to obtain certain services for: Money Management Services.

WHEREAS, Vendor desires to provide such services to Delaware on the terms set forth below;

WHEREAS, Delaware and Vendor represent and warrant that each party has full right, power and authority to enter into and perform under this Agreement;

FOR AND IN CONSIDERATION OF the premises and mutual agreements herein, Delaware and Vendor agree as follows:

#### 1. Services.

- 1.1. Vendor shall perform for Delaware the services specified in the Appendices to this Agreement, attached hereto and made a part hereof.
- 1.2. Any conflict or inconsistency between the provisions of the following documents shall be resolved by giving precedence to such documents in the following order: (a) this Agreement (including any amendments or modifications thereto); (b) Delaware's request for proposals, attached hereto as Appendix F; and (c) Vendor's response to the request for proposals, attached hereto as Appendices D and G. The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.
- 1.3. Delaware may, at any time, by written order, make changes in the scope of this Agreement and in the services or work to be performed. No services for which additional compensation may be charged by Vendor shall be furnished, without the written authorization of Delaware. When Delaware desires any addition or deletion to the deliverables or a change in the Services to be provided under this Agreement, it shall notify Vendor, who shall then submit to Delaware a "Change Order" for approval

authorizing said change. The Change Order shall state whether the change shall cause an alteration in the price or the time required by Vendor for any aspect of its performance under this Agreement. Pricing of changes shall be consistent with those established within this Agreement.

1.4. Vendor will not be required to make changes to its scope of work that result in Vendor's costs exceeding the current unencumbered budgeted appropriations for the services. Any claim of either party for an adjustment under Section 1 of this Agreement shall be asserted in the manner specified in the writing that authorizes the adjustment.

### 2. Payment for Services and Expenses.

- 2.1. The term of the initial contract shall be from July 1, 2016 through June 30, 2017.
- 2.2. Delaware will pay Vendor for the performance of services described in Appendix C, Service Specifications. The fee will be paid in accordance with the payment schedule attached hereto as part of Appendix D.
- 2.3. Delaware's obligation to pay Vendor for the performance of services described in Appendix C, Service Specifications will not exceed the fixed fee amount of \$124,713. It is expressly understood that the work defined in the appendices to this Agreement must be completed by Vendor and it shall be Vendor's responsibility to ensure that hours and tasks are properly budgeted so that all services are completed for the agreed upon fixed fee. Delaware's total liability for all charges for services that may become due under this Agreement is limited to the total maximum expenditure(s) authorized in Delaware's purchase order(s) to Vendor.
- 2.4. Vendor shall submit monthly invoices to Delaware in sufficient detail to support the services provided during the previous month. Delaware agrees to pay those invoices within thirty (30) days of receipt. In the event Delaware disputes a portion of an invoice, Delaware agrees to pay the undisputed portion of the invoice within thirty (30) days of receipt and to provide Vendor a detailed statement of Delaware's position on the disputed portion of the invoice within thirty (30) days of receipt. Delaware's failure to pay any amount of an invoice that is not the subject of a good-faith dispute within thirty (30) days of receipt shall entitle Vendor to charge interest on the overdue portion at the lower of 1.0% per month. All payments should be sent to the Vendor's identified address on record with the State of Delaware's Division of Accounting as identified in the completion of the electronic W-9.
- 2.5. Unless provided otherwise in an Appendix, all expenses incurred in the performance of the services are to be paid by Vendor. If an Appendix specifically provides for expense reimbursement, Vendor shall be reimbursed only for reasonable expenses incurred by Vendor in the performance of the services, including, but not necessarily limited to, travel and lodging expenses, communications charges, and computer time and supplies.
- 2.6. Delaware is a sovereign entity, and shall not be liable for the payment of federal, state and local sales, use and excise taxes, including any interest and penalties from any related deficiency, which may become due and payable as a consequence of this Agreement.

- 2.7. Delaware shall subtract from any payment made to Vendor all damages, costs and expenses caused by Vendor's negligence, resulting from or arising out of errors or omissions in Vendor's work products, which have not been previously paid to Vendor.
- 2.8. Invoices shall be submitted to: brian.bayley@state.de.us

### 3. Responsibilities of Vendor.

- 3.1. Vendor shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by Vendor, its subcontractors and its and their principals, officers, employees and agents under this Agreement. In performing the specified services, Vendor shall follow practices consistent with generally accepted professional and technical standards. Vendor shall be responsible for ensuring that all services, products and deliverables furnished pursuant to this Agreement comply with the standards promulgated by the Department of Technology and Information ("DTI") published at <a href="http://dti.delaware.gov/">http://dti.delaware.gov/</a>, and as modified from time to time by DTI during the term of this Agreement. If any service, product or deliverable furnished pursuant to this Agreement does not conform to DTI standards, Vendor shall, at its expense and option either (1) replace it with a conforming equivalent or (2) modify it to conform to DTI standards. Vendor shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to Delaware caused by Vendor's failure to ensure compliance with DTI standards.
- 3.2. It shall be the duty of the Vendor to assure that all products of its effort are technically sound and in conformance with all pertinent Federal, State and Local statutes, codes, ordinances, resolutions and other regulations. Vendor will not produce a work product that violates or infringes on any copyright or patent rights. Vendor shall, without additional compensation, correct or revise any errors or omissions in its work products.
- 3.3. Permitted or required approval by Delaware of any products or services furnished by Vendor shall not in any way relieve Vendor of responsibility for the professional and technical accuracy and adequacy of its work. Delaware's review, approval, acceptance, or payment for any of Vendor's services herein shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and Vendor shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to Delaware caused by Vendor's performance or failure to perform under this Agreement.
- 3.4. Vendor shall appoint a Project Manager who will manage the performance of services. All of the services specified by this Agreement shall be performed by the Project Manager, or by Vendor's associates and employees under the personal supervision of the Project Manager. The positions anticipated include:
- 3.5. Designation of persons for each position is subject to review and approval by Delaware. Should the staff need to be diverted off the project for what are now unforeseeable circumstances, Vendor will notify Delaware immediately and work out a transition plan that is acceptable to both parties, as well as agree to an acceptable replacement plan to fill or complete the work assigned to this project staff position. Replacement staff persons are subject to review and approval by Delaware. If Vendor fails to make a required replacement within 30 days, Delaware may terminate this

Agreement for default. Upon receipt of written notice from Delaware that an employee of Vendor is unsuitable to Delaware for good cause, Vendor shall remove such employee from the performance of services and substitute in his/her place a suitable employee.

- 3.6. Vendor shall furnish to Delaware's designated representative copies of all correspondence to regulatory agencies for review prior to mailing such correspondence.
- 3.7. Vendor agrees that its officers and employees will cooperate with Delaware in the performance of services under this Agreement and will be available for consultation with Delaware at such reasonable times with advance notice as to not conflict with their other responsibilities.
- 3.8. Vendor has or will retain such employees as it may need to perform the services required by this Agreement. Such employees shall not be employed by Delaware or any other political subdivision of Delaware.
- 3.9. Vendor will not use Delaware's name, either express or implied, in any of its advertising or sales materials without Delaware's express written consent.
- 3.10. The rights and remedies of Delaware provided for in this Agreement are in addition to any other rights and remedies provided by law.

### 4. Time Schedule.

- 4.1. A work plan is included in Appendix G.
- 4.2. Any delay of services or change in sequence of tasks must be approved in writing by Delaware.
- 4.3. In the event that Vendor fails to complete the project or any phase thereof within the time specified in the Contract, or with such additional time as may be granted in writing by Delaware, or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this Agreement or any extensions thereof, Delaware shall suspend the payments scheduled as set forth in Appendix D.

### 5. State Responsibilities.

- 5.1. In connection with Vendor's provision of the Services, Delaware shall perform those tasks and fulfill those responsibilities specified in the appropriate Appendices.
- 5.2. Delaware agrees that its officers and employees will cooperate with Vendor in the performance of services under this Agreement and will be available for consultation with Vendor at such reasonable times with advance notice as to not conflict with their other responsibilities.
- 5.3. The services performed by Vendor under this Agreement shall be subject to review for compliance with the terms of this Agreement by Delaware's designated representatives. Delaware representatives may delegate any or all responsibilities

- under the Agreement to appropriate staff members, and shall so inform Vendor by written notice before the effective date of each such delegation.
- 5.4. The review comments of Delaware's designated representatives may be reported in writing as needed to Vendor. It is understood that Delaware's representatives' review comments do not relieve Vendor from the responsibility for the professional and technical accuracy of all work delivered under this Agreement.
- 5.5. Delaware shall, without charge, furnish to or make available for examination or use by Vendor as it may request, any data which Delaware has available, including as examples only and not as a limitation:
  - a. Copies of reports, surveys, records, and other pertinent documents;
  - b. Copies of previously prepared reports, job specifications, surveys, records, ordinances, codes, regulations, other documents, and information related to the services specified by this Agreement.

Vendor shall return any original data provided by Delaware.

- 5.6. Delaware shall assist Vendor in obtaining data on documents from public officers or agencies and from private citizens and business firms whenever such material is necessary for the completion of the services specified by this Agreement.
- 5.7. Vendor will not be responsible for accuracy of information or data supplied by Delaware or other sources to the extent such information or data would be relied upon by a reasonably prudent contractor.
- 5.8. Delaware agrees not to use Vendor's name, either express or implied, in any of its advertising or sales materials. Vendor reserves the right to reuse the nonproprietary data and the analysis of industry-related information in its continuing analysis of the industries covered.

### 6. Work Product.

- 6.1. All materials, information, documents, and reports, whether finished, unfinished, or draft, developed, prepared, completed, or acquired by Vendor for Delaware relating to the services to be performed hereunder shall become the property of Delaware and shall be delivered to Delaware's designated representative upon completion or termination of this Agreement, whichever comes first. Vendor shall not be liable for damages, claims, and losses arising out of any reuse of any work products on any other project conducted by Delaware. Delaware shall have the right to reproduce all documentation supplied pursuant to this Agreement.
- 6.2. Vendor retains all title and interest to the data it furnished and/or generated pursuant to this Agreement. Retention of such title and interest does not conflict with Delaware's rights to the materials, information and documents developed in performing the project. Upon final payment, Delaware shall have a perpetual, nontransferable, non-exclusive paid-up right and license to use, copy, modify and prepare derivative works of all materials in which Vendor retains title, whether individually by Vendor or jointly with Delaware. Any and all source code developed in connection with the services provided

will be provided to Delaware, and the aforementioned right and license shall apply to source code. The parties will cooperate with each other and execute such other documents as may be reasonably deemed necessary to achieve the objectives of this Section.

- 6.3. In no event shall Vendor be precluded from developing for itself, or for others, materials that are competitive with the Deliverables, irrespective of their similarity to the Deliverables. In addition, Vendor shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques within the scope of its consulting practice that are used in the course of providing the services.
- 6.4. Notwithstanding anything to the contrary contained herein or in any attachment hereto, any and all intellectual property or other proprietary data owned by Vendor prior to the effective date of this Agreement ("Preexisting Information") shall remain the exclusive property of Vendor even if such Preexisting Information is embedded or otherwise incorporated into materials or products first produced as a result of this Agreement or used to develop such materials or products. Delaware's rights under this section shall not apply to any Preexisting Information or any component thereof regardless of form or media.

### 7. Confidential Information.

To the extent permissible under 29 *Del. C.* ¹ 10001, et seq., the parties to this Agreement shall preserve in strict confidence any information, reports or documents obtained, assembled or prepared in connection with the performance of this Agreement.

### 8. Warranty.

- 8.1. Vendor warrants that its services will be performed in a good and workmanlike manner. Vendor agrees to re-perform any work not in compliance with this warranty brought to its attention within a reasonable time after that work is performed.
- 8.2. Third-party products within the scope of this Agreement are warranted solely under the terms and conditions of the licenses or other agreements by which such products are governed. With respect to all third-party products and services purchased by Vendor for Delaware in connection with the provision of the Services, Vendor shall pass through or assign to Delaware the rights Vendor obtains from the manufacturers and/or vendors of such products and services (including warranty and indemnification rights), all to the extent that such rights are assignable.

### 9. Indemnification; Limitation of Liability.

- 9.1. Vendor shall indemnify and hold harmless the State, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) directly arising out of:
  - a. the negligence or other wrongful conduct of the Vendor, its agents or employees, or
  - b. Vendor's breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that

- i. Vendor shall have been notified promptly in writing by Delaware of any notice of such claim; and
- ii. Vendor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.
- 9.2. If Delaware promptly notifies Vendor in writing of a third party claim against Delaware that any Deliverable infringes a copyright or a trade secret of any third party, Vendor will defend such claim at its expense and will pay any costs or damages that may be finally awarded against Delaware. Vendor will not indemnify Delaware, however, if the claim of infringement is caused by:
  - a. Delaware's misuse or modification of the Deliverable;
  - b. Delaware's failure to use corrections or enhancements made available by Vendor;
  - c. Delaware's use of the Deliverable in combination with any product or information not owned or developed by Vendor;
  - d. Delaware's distribution, marketing or use for the benefit of third parties of the Deliverable or
  - e. Information, direction, specification or materials provided by Client or any third party. If any Deliverable is, or in Vendor's opinion is likely to be, held to be infringing, Vendor shall at its expense and option either
    - i. Procure the right for Delaware to continue using it,
    - ii. Replace it with a non-infringing equivalent,
    - iii. Modify it to make it non-infringing.

The foregoing remedies constitute Delaware's sole and exclusive remedies and Vendor's entire liability with respect to infringement.

### 10. Employees.

- 10.1. Vendor has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons employed by Vendor in the performance of the services hereunder; provided, however, that it will, subject to scheduling and staffing considerations, attempt to honor Delaware's request for specific individuals.
- 10.2. Except as the other party expressly authorizes in writing in advance, neither party shall solicit, offer work to, employ, or contract with, whether as a partner, employee or independent contractor, directly or indirectly, any of the other party's Personnel during their participation in the services or during the twelve (12) months thereafter. For purposes of this Section, Personnel includes any individual or company a party employs as a partner, employee or independent contractor and with which a party comes into direct contact in the course of the services.

10.3. Possession of a Security Clearance, as issued by the Delaware Department of Public Safety, may be required of any employee of Vendor who will be assigned to this project.

### 11. Independent Contractor.

- 11.1.It is understood that in the performance of the services herein provided for, Vendor shall be, and is, an independent contractor, and is not an agent or employee of Delaware and shall furnish such services in its own manner and method except as required by this Agreement. Vendor shall be solely responsible for, and shall indemnify, defend and save Delaware harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever.
- 11.2. Vendor acknowledges that Vendor and any subcontractors, agents or employees employed by Vendor shall not, under any circumstances, be considered employees of Delaware, and that they shall not be entitled to any of the benefits or rights afforded employees of Delaware, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits. Delaware will not provide or pay for any liability or medical insurance, retirement contributions or any other benefits for or on behalf of Delaware or any of its officers, employees or other agents.
- 11.3. Vendor shall be responsible for providing liability insurance for its personnel.
- 11.4.As an independent contractor, Vendor has no authority to bind or commit Delaware. Nothing herein shall be deemed or construed to create a joint venture, partnership, fiduciary or agency relationship between the parties for any purpose.

### 12. Suspension.

- 12.1. Delaware may suspend performance by Vendor under this Agreement for such period of time as Delaware, at its sole discretion, may prescribe by providing written notice to Vendor at least 30 working days prior to the date on which Delaware wishes to suspend. Upon such suspension, Delaware shall pay Vendor its compensation, based on the percentage of the project completed and earned until the effective date of suspension, less all previous payments. Vendor shall not perform further work under this Agreement after the effective date of suspension. Vendor shall not perform further work under this Agreement after the effective date of suspension until receipt of written notice from Delaware to resume performance.
- 12.2. In the event Delaware suspends performance by Vendor for any cause other than the error or omission of the Vendor, for an aggregate period in excess of 30 days, Vendor shall be entitled to an equitable adjustment of the compensation payable to Vendor under this Agreement to reimburse Vendor for additional costs occasioned as a result of such suspension of performance by Delaware based on appropriated funds and approval by Delaware.

#### 13. Termination.

- 13.1. This Agreement may be terminated in whole or in part by either party in the event of substantial failure of the other party to fulfill its obligations under this Agreement through no fault of the terminating party; but only after the other party is given:
  - a. Not less than 20 calendar days written notice of intent to terminate; and
  - b. An opportunity for consultation with the terminating party prior to termination.
- 13.2. This Agreement may be terminated in whole or in part by Delaware for its convenience, but only after Vendor is given:
  - a. Not less than 20 calendar days written notice of intent to terminate; and
  - b. An opportunity for consultation with Delaware prior to termination.
- 13.3.If termination for default is effected by Delaware, Delaware will pay Vendor that portion of the compensation which has been earned as of the effective date of termination, but:
  - a. No amount shall be allowed for anticipated profit on performed or unperformed services or other work, and
  - b. Any payment due to Vendor at the time of termination may be adjusted to the extent of any additional costs occasioned to Delaware by reason of Vendor's default.
  - c. Upon termination for default, Delaware may take over the work and prosecute the same to completion by agreement with another party or otherwise. In the event Vendor shall cease conducting business, Delaware shall have the right to make an unsolicited offer of employment to any employees of Vendor assigned to the performance of the Agreement, notwithstanding the provisions of Section 10.2.
- 13.4. If after termination for failure of Vendor to fulfill contractual obligations it is determined that Vendor has not so failed, the termination shall be deemed to have been effected for the convenience of Delaware.
- 13.5. The rights and remedies of Delaware and Vendor provided in this section are in addition to any other rights and remedies provided by law or under this Agreement.

### 13.6. Gratuities.

- a. Delaware may, by written notice to Vendor, terminate this Agreement if it is found after notice and hearing by Delaware that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Vendor or any agent or representative of Vendor to any officer or employee of Delaware with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this Agreement.
- b. In the event this Agreement is terminated as provided in 13.6.a hereof, Delaware shall be entitled to pursue the same remedies against Vendor it could pursue in the event of a breach of this Agreement by Vendor.

c. The rights and remedies of Delaware provided in Section 13.6 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

### 14. Severability.

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

### 15. Assignment; Subcontracts.

- 15.1. Any attempt by Vendor to assign or otherwise transfer any interest in this Agreement without the prior written consent of Delaware shall be void. Such consent shall not be unreasonably withheld.
- 15.2. Services specified by this Agreement shall not be subcontracted by Vendor, without prior written approval of Delaware.
- 15.3. Approval by Delaware of Vendor's request to subcontract or acceptance of or payment for subcontracted work by Delaware shall not in any way relieve Vendor of responsibility for the professional and technical accuracy and adequacy of the work. All subcontractors shall adhere to all applicable provisions of this Agreement.
- 15.4. Vendor shall be and remain liable for all damages to Delaware caused by negligent performance or non-performance of work under this Agreement by Vendor, its subcontractor or its sub-subcontractor.
- 15.5. The compensation due shall not be affected by Delaware's approval of the Vendor's request to subcontract.

### 16. Force Majeure.

Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.

### 17. Non-Appropriation of Funds.

17.1. Validity and enforcement of this Agreement is subject to appropriations by the General Assembly of the specific funds necessary for contract performance. Should such funds not be so appropriated Delaware may immediately terminate this Agreement, and absent such action this Agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available, at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

17.2. Notwithstanding any other provisions of this Agreement, this Agreement shall terminate and Delaware's obligations under it shall be extinguished at the end of the fiscal year in which Delaware fails to appropriate monies for the ensuing fiscal year sufficient for the payment of all amounts which will then become due.

#### 18. State of Delaware Business License.

Vendor and all subcontractors represent that they are properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* ' 2502.

### 19. Complete Agreement.

- 19.1. This agreement and its Appendices shall constitute the entire agreement between Delaware and Vendor with respect to the subject matter of this Agreement and shall not be modified or changed without the express written consent of the parties. The provisions of this agreement supersede all prior oral and written quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement.
- 19.2. If the scope of any provision of this Agreement is too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the Agreement shall not thereby fail, but the scope of such provision shall be curtailed only to the extent necessary to conform to the law.
- 19.3. Vendor may not order any product requiring a purchase order prior to Delaware's issuance of such order. Each Appendix, except as its terms otherwise expressly provide, shall be a complete statement of its subject matter and shall supplement and modify the terms and conditions of this Agreement for the purposes of that engagement only. No other agreements, representations, warranties or other matters, whether oral or written, shall be deemed to bind the parties hereto with respect to the subject matter hereof.

### 20. Miscellaneous Provisions.

- 20.1.In performance of this Agreement, Vendor shall comply with all applicable federal, state and local laws, ordinances, codes and regulations. Vendor shall solely bear the costs of permits and other relevant costs required in the performance of this Agreement.
- 20.2. Neither this Agreement nor any appendix may be modified or amended except by the mutual written agreement of the parties. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.
- 20.3. The delay or failure by either party to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of that party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

- 20.4. Vendor covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Vendor further covenants, to its knowledge and ability, that in the performance of said services no person having any such interest shall be employed.
- 20.5. Vendor acknowledges that Delaware has an obligation to ensure that public funds are not used to subsidize private discrimination. Vendor recognizes that if they refuse to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, Delaware may declare Vendor in breach of the Agreement, terminate the Agreement, and designate Vendor as non-responsible.
- 20.6. Vendor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, Delaware shall have the right to annul this contract without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.
- 20.7. This Agreement was drafted with the joint participation of both parties and shall be construed neither against nor in favor of either, but rather in accordance with the fair meaning thereof.
- 20.8. Vendor shall maintain all public records, as defined by 29 *Del. C.* ' 502(1), relating to this Agreement and its deliverables for the time and in the manner specified by the Delaware Division of Archives, pursuant to the Delaware Public Records Law, 29 *Del. C.* Ch. 5. During the term of this Agreement, authorized representatives of Delaware may inspect or audit Vendor' performance and records pertaining to this Agreement at the Vendor business office during normal business hours.

### 21. Insurance.

- 21.1. Vendor shall maintain the following insurance during the term of this Agreement:
  - a. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, **and**
  - b. Comprehensive General Liability \$1,000,000.00 per occurrence/\$3,000,000 per aggregate, and
  - c. Medical/Professional Liability \$1,000,000.00 per occurrence/\$3,000,000 per aggregate; or
  - d. Miscellaneous Errors and Omissions \$1,000,000.00 per occurrence/\$3,000,000 per aggregate, or
  - e. Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury and \$25,000 as to property damage to others.

- 21.2. Should any of the above described policies be cancelled before expiration date thereof, notice will be delivered in accordance with the policy provisions.
- 21.3. Before any work is done pursuant to this Agreement, the Certificate of Insurance and/or copies of the insurance policies, referencing the contract number stated herein, shall be filed with the State. The certificate holder is as follows:

Division of Services for Aging & Adults with Physical Disabilities (DSAAPD) 1901 N. Dupont Highway New Castle, DE 19720

21.4.In no event shall the State of Delaware be named as an additional insured on any policy required under this agreement.

### 22. Assignment of Antitrust Claims.

As consideration for the award and execution of this contract by the State, Vendor hereby grants, conveys, sells, assigns, and transfers to Delaware all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, relating to the particular goods or services purchased or acquired by the State pursuant to this contract.

### 23. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where Federal Law has precedence. Vendor consents to jurisdiction venue in the State of Delaware.

### 24. Notices.

Any and all notices required by the provisions of this Agreement shall be in writing and shall be mailed, certified or registered mail, return receipt requested. All notices shall be sent to the following addresses:

### **DELAWARE**:

Division of Services for Aging & Adults with Physical Disabilities (DSAAPD) 1901 N. Dupont Highway Main Building – Room 119 New Castle, DE 19720 Attn: Brian Bayley

#### VENDOR:

Easter Seals of Delaware and Maryland's Eastern Shore 61 Corporate Circle New Castle, DE 19720

IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

For the Contractor:

Easter Seals of DE & Maryland's Eastern Shore 61 Corporate Circle New Castle, DE 19720

For the State of Delaware:

Division of Services for Aging & Adults with Physical Disabilities (DSAAPD)

Signature on File

Name

Date

Signature on File

Lisa Bond Director, DSAAPD

### **APPENDIX A:** Divisional Requirements

### Sanctions - Revised 10/21/15

The Division reserves the right to reduce the number of people a Contractor currently serves, restrict the number of referrals a Contractor may receive, or rescind authorization to operate one or more service sites (e.g., neighborhood home, apartment) or any combination of such measures as sanctions for documented unsatisfactory contract performance as determined by the Division. The Division may impose such sanctions for a period of between 30 to 365 days, with the right to renew the sanctions at the Division's sole discretion.

- 1. The contractor agrees to comply with all policies and procedures contained within the *DSAAPD Policy Manual for Contracts*, which is hereby included by reference.
- 2. The contractor agrees to meet or exceed all minimum service standards as indicated in the service specifications (if applicable) for the contracted service.
- 3. This agreement is subject to the availability of State and/or Federal funds.
- 4. The contractor agrees to submit quarterly (or monthly) financial reports, program performance reports and other reports as required by the Division on the due dates as specified in the DSAAPD *Policy Manual for Contracts* policies Q and S. Payments for the following months may be withheld if the contractor fails to comply with these requirements.
- 5. The contractor agrees that the project will be carried out in accordance with the applicable Federal and State statutes, rules, regulations, and the policies and procedures established by the Department and Division, the terms and conditions of this contract and the RFP application as approved by the Department.
- 6. If, at any given time the Contractor cannot provide the contracted and authorized services, the Division has the authority to remove funds from the contract.
- 7. The contractor agrees to acknowledge the Division of Services for Aging and Adults with Disabilities as a funding source in all publicity about the project.
- 8. No part of any funds under this contract shall be used to pay the salary or expenses of any contractor or agent acting for the contractor, to engage in lobbying designed to influence legislation or appropriations pending before the legislature and/or Congress.
- 9. The contractor acknowledges that no state or federal funds may be requested unless the contractor has the local resources to meet the required match, if applicable. These resources may not be used as match for any other program. Failure of any contractor to document and provide the budgeted required match could result in an audit finding and the funds returned to the Division.
- 10. In cost reimbursement contracts, any funds paid by the Division to the contractor, in excess of actual expenditure, incurred and paid by the contractor, must be returned to the Division.

- 11. Any changes in the line items of a cost reimbursement budget must be in compliance with the DSAAPD *Policy Manual for Contracts* Policy F. Non-compliance will result in a disallowed cost and audit finding.
- 12. The period of notice required for the Contractor to terminate or to not renew this agreement without cause is extended to ninety (90) calendar days with written notice to the Division pursuant to Item 13 of the Department boilerplate.
- 13. The Contractor agrees to list the DSAAPD as a Certificate Holder on their current Insurance Certificate, as required by the Department.
- 14. The Contractor agrees to provide the Division with a current copy of its Emergency Preparedness Plan upon request.
- 15. The contractor agrees to cooperate and assist in efforts undertaken by the Division, the U.S. Administration on Aging, or any other agency or organization duly authorized by any of the preceding to evaluate the effectiveness, feasibility and cost of the project.
- 16. The contractor of an Older Americans Act program acknowledges that the total cost of the contract, excluding program income, must include a 10% match of non-DSAAPD resources (e.g. local cash and/or in-kind that is provided by the contractor). Any budget items including salaries and/or fringe benefits used for the match must not be from Federal or State Funds and must not be used as a match for another program. During the year-end closeout, the contractor will refund all unmatched DSAAPD funds as required by Federal regulations.

### RECITALS

WHEREAS, The Parties have entered, and may in the future enter, into one or more arrangements or agreements (the "Agreement") which require the Business Associate to perform functions or activities on behalf of, or services for, Covered Entity or a Covered Entity Affiliate ("CE Affiliate") that involve the use or disclosure of Protected Health Information ("PHI") that is subject to the final federal Privacy, Security, Breach Notification and Enforcement Rules (collectively the "HIPAA Rules") issued pursuant to the Health Insurance Portability and Accountability Act of 1996 (the Act including the HIPAA rules shall be referred to as "HIPAA") and the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH"), as each is amended from time to time. The purpose of this BAA is to set forth the obligations of the Parties with respect to such PHI.

WHEREAS, Business Associate provides Money Management Services for Covered Entity pursuant to a contract dated July 1, 2016 and such other engagements as shall be entered into between the parties in the future in which Covered Entity discloses certain Protected Health Information ("PHI") to Business Associate (collectively, the "Master Agreement");

WHEREAS, Business Associate, in the course of providing services to Covered Entity, may have access to PHI and may be deemed a business associate for certain purposes under HIPAA;

WHEREAS, the Parties contemplate that Business Associate may obtain PHI, with Covered Entity's knowledge and consent, from certain other business associates of Covered Entity that may possess such PHI; and

WHEREAS, Business Associate and Covered Entity are entering into this BAA to set forth Business Associate's obligations with respect to its handling of the PHI, whether such PHI was obtained from another business associate of Covered Entity or directly from Covered Entity;

**NOW, THEREFORE,** for mutual consideration, the sufficiency and delivery of which is acknowledged by the Parties, and upon the premises and covenants set forth herein, the Parties agree as follows:

- 1. <u>Definitions</u>. Unless otherwise defined herein, capitalized terms used in this BAA shall have the meanings ascribed to them in HIPAA or the Master Agreement between Covered Entity and Business Associate, as applicable.
- **Obligations and Activities of Business Associate.** To the extent that Business Associate is provided with or creates any PHI on behalf of Covered Entity and is acting as a business associate of Covered Entity, Business Associate agrees to comply with the provisions of HIPAA applicable to business associates, and in doing so, represents and warrants as follows:
  - (a) <u>Use or Disclosure</u>. Business Associate agrees to not use or disclose PHI other than as set forth in this BAA, the Master Agreement, or as required by law.
  - **(b)** Specific Use of Disclosure. Except as otherwise limited by this BAA, Business Associate may:

- (i) use or disclose PHI to perform data aggregation and other services required under the Master Agreement to assist Covered Entity in its operations, as long as such use or disclosure would not violate HIPAA if done by Covered Entity, or HIPAA permits such use or disclosure by a business associate;
- (ii) use or disclose PHI for the proper management and administration of Business Associate or to carry out Business Associate's legal responsibilities, provided that with respect to disclosure of PHI, such disclosure is required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached; and
- (iii) de-identify PHI and maintain such de-identified PHI indefinitely, notwithstanding Section 4 of this Agreement, provided that all identifiers are destroyed or returned in accordance with the Privacy Rule.
- (c) <u>Minimum Necessary</u>. Business Associate agrees to take reasonable efforts to limit requests for, or uses and disclosures of, PHI to the extent practical, a limited data set, otherwise to the minimum necessary to accomplish the intended request, use, or disclosure.
- (d) <u>Safeguards</u>. Business Associate shall establish appropriate safeguards, consistent with HIPAA, that are reasonable and necessary to prevent any use or disclosure of PHI not expressly authorized by this BAA.
  - (i) To the extent that Business Associate creates, receives, maintains, or transmits Electronic PHI, Business Associate agrees to establish administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity, as required by the Privacy Rule and Security Rule.
  - (ii) The safeguards established by Business Associate shall include securing PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity in accordance with the standards set forth in HITECH Act §13402(h) and any guidance issued thereunder.
  - (iii) Business Associate agrees to provide Covered Entity with such written documentation concerning safeguards as Covered Entity may reasonably request from time to time.
- (e) Agents and Subcontractors. Business Associate agrees to obtain written assurances that any agents, including subcontractors, to whom it provides PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, agree to the same restrictions and conditions that apply to Business Associate with respect to such PHI, including the requirement that it agree to implement reasonable and appropriate safeguards to protect Electronic PHI that is disclosed to it by Business Associate. To the extent permitted by law, Business Associate shall be fully liable to Covered Entity for any and all acts, failures, or omissions of Business Associate's agents and subcontractors in any breach of their subcontracts or assurances to Business Associate as though they were Business Associate's own acts, failures, or omissions.

- **Reporting.** Within five (5) business days of discovery by Business Associate, Business Associate agrees to notify Covered Entity in writing of any use or disclosure of, or Security Incident involving, PHI, including any Breach of Unsecured PHI, not provided for by this BAA or the Master Agreement, of which Business Associate may become aware.
  - (i) In the notice provided to Covered Entity by Business Associate regarding unauthorized uses and/or disclosures of PHI, Business Associate shall describe the remedial or proposed mitigation efforts required under Section 2(g) of this BAA.
  - (ii) Specifically with respect to reporting a Breach of Unsecured PHI, Business Associate agrees to must include the identity of the individual(s) whose Unsecured PHI was Breached in the written notice provided to Covered Entity, and any additional information required by HIPAA.
  - (ii) Business Associate agrees to cooperate with Covered Entity upon report of any such Breach so that Covered Entity may provide the individual(s) affected by such Breach with proper notice as required by HIPAA.
- **(g)** <u>Mitigation</u>. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate resulting from a use or disclosure of PHI by Business Associate in violation of the requirements of this BAA or the Master Agreement.
- (h) <u>Audits and Inspections</u>. Business Associate agrees to make its internal practices, books, and records, including policies and procedures, relating to the use and disclosure of PHI available to the Secretary, in a time and manner mutually agreed to by the Parties or designated by the Secretary, for purposes of the Secretary determining the Covered Entity's compliance with HIPAA.
- (i) Accounting. Business Associate agrees to document and report to Covered Entity, within fourteen (14) days, Business Associate's disclosures of PHI so Covered Entity can comply with its accounting of disclosure obligations in accordance with 45 C.F.R. §164.528 and any subsequent regulations issued thereunder. Business Associate agrees to maintain electronic records of all such disclosures for a minimum of six (6) calendar years.
- **Designated Record Set.** While the Parties do not intend for Business Associate to maintain any PHI in a designated record set, to the extent that Business Associate does maintain any PHI in a designated record set, Business Associate agrees to make available to Covered Entity PHI within fourteen (14) days:
  - (i) for Covered Entity to comply with its access obligations in accordance with 45 C.F.R. §164.524 and any subsequent regulations issued thereunder; and
  - (ii) for amendment upon Covered Entity's request and incorporate any amendments to PHI as may be required for Covered Entity comply with its amendment obligations in accordance with 45 C.F.R. §164.526 and any subsequent guidance.
- (k) <u>HITECH Compliance Dates</u>. Business Associate agrees to comply with the HITECH Act provisions expressly addressed, or incorporated by reference, in this BAA as of the effective dates of applicability and enforcement established by the HITECH Act and any subsequent regulations issued thereunder.

### 3. Obligations of Covered Entity.

- (a) Covered Entity agrees to notify Business Associate of any limitation(s) in Covered Entity's notice of privacy practices in accordance with 45 C.F.R. §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- (b) Covered Entity agrees to notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, including disclosure of data to insurers and health plans when the patient pays for medical services in full and requests that such notification not be made, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- (c) Covered Entity agrees to notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. §164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- (d) Covered Entity agrees to limit its use, disclosure, and requests of PHI under this BAA to a limited data set or, if needed by Covered Entity, to the minimum necessary PHI to accomplish the intended purpose of such use, disclosure, or request.

### 4. Term and Termination.

(a) <u>Term.</u> This BAA shall become effective upon the Effective Date and, unless otherwise terminated as provided herein, shall have a term that shall run concurrently with that of the last expiration date or termination of the Master Agreement.

### (b) Termination Upon Breach.

- (i) Without limiting the termination rights of the Parties pursuant to the Master Agreement, upon either Party's knowledge of a material breach by the other Party to this BAA, the breaching Party shall notify the non-breaching Party of such breach and the breaching party shall have fourteen (14) days from the date of notification to the non-breaching party to cure such breach. In the event that such breach is not cured, or cure is infeasible, the non-breaching party shall have the right to immediately terminate this BAA and those portions of the Master Agreement that involve the disclosure to Business Associate of PHI, or, if nonseverable, the Master Agreement.
- (c) <u>Termination by Either Party</u>. Either Party may terminate this BAA upon provision of thirty (30) days' prior written notice.

### (d) Effect of Termination.

- (i) To the extent feasible, upon termination of this BAA or the Master Agreement for any reason, Business Associate agrees, and shall cause any subcontractors or agents to return or destroy and retain no copies of all PHI received from, or created or received by Business Associate on behalf of, Covered Entity. Business Associate agrees to complete such return or destruction as promptly as possible and verify in writing within thirty (30) days of the termination of this BAA to Covered Entity that such return or destruction has been completed.
- (ii) If not feasible, Business Associate agrees to provide Covered Entity notification of the conditions that make return or destruction of PHI not feasible. Upon notice to Covered Entity that return or destruction of PHI is not feasible, Business Associate

agrees to extend the protections of this BAA to such PHI for as long as Business Associate maintains such PHI.

(iii) Without limiting the foregoing, Business Associate may retain copies of PHI in its workpapers related to the services provided in the Master Agreement to meet its professional obligations.

### 5. <u>Miscellaneous</u>.

- (a) <u>Regulatory References</u>. A reference in this BAA to a section in the Privacy Rule or Security Rule means the section as in effect or as amended.
- **(b)** Amendment. The Parties acknowledge that the provisions of this BAA are designed to comply with HIPAA and agree to take such action as is necessary to amend this BAA from time to time as is necessary for Covered Entity to comply with the requirements of HIPAA. Regardless of the execution of a formal amendment of this BAA, the BAA shall be deemed amended to permit the Covered Entity and Business Associate to comply with HIPAA.
- (c) <u>Method of Providing Notice</u>. Any notice required to be given pursuant to the terms and provisions of this BAA shall be in writing and may be either personally delivered or sent by registered or certified mail in the United States Postal Service, Return Receipt Requested, postage prepaid, addressed to each Party at the addresses listed in the Master Agreement currently in effect between Covered Entity and Business Associate. Any such notice shall be deemed to have been given if mailed as provided herein, as of the date mailed.
- (d) <u>Parties Bound</u>. This BAA shall inure to the benefit of and be binding upon the Parties hereto and their respective legal representatives, successors, and assigns. Business Associate may not assign or subcontract the rights or obligations under this BAA without the express written consent of Covered Entity. Covered Entity may assign its rights and obligations under this BAA to any successor or affiliated entity.
- **(e)** No Waiver. No provision of this BAA or any breach thereof shall be deemed waived unless such waiver is in writing and signed by the Party claimed to have waived such provision or breach. No waiver of a breach shall constitute a waiver of or excuse any different or subsequent breach.
- (f) Effect on Master Agreement. This BAA together with the Master Agreement constitutes the complete agreement between the Parties and supersedes all prior representations or agreements, whether oral or written, with respect to such matters. In the event of any conflict between the terms of this BAA and the terms of the Master Agreement, the terms of this BAA shall control unless the terms of such Master Agreement are stricter, as determined by Covered Entity, with respect to PHI and comply with HIPAA, or the Parties specifically otherwise agree in writing. No oral modification or waiver of any of the provisions of this BAA shall be binding on either party. No obligation on either party to enter into any transaction is to be implied from the execution or delivery of this BAA.
- **Interpretation.** Any ambiguity in this BAA shall be resolved to permit the Covered Entity to comply with HIPAA and any subsequent guidance.
- (h) No Third Party Rights. Except as stated herein, the terms of this BAA are not intended nor should they be construed to grant any rights, remedies, obligations, or liabilities

whatsoever to parties other than Business Associate and Covered Entity and their respective successors or assigns.

- (i) <u>Applicable Law</u>. This BAA shall be governed under the laws of the State of Delaware, without regard to choice of law principles, and the Delaware courts shall have sole and exclusive jurisdiction over any dispute arising under this Agreement.
- (j) <u>Judicial and Administrative Proceedings</u>. In the event that Business Associate receives a subpoena, court or administrative order, or other discovery request or mandate for release of PHI, Business Associate agrees to collaborate with Covered Entity with respect to Business Associate's response to such request. Business Associate shall notify Covered Entity within seven (7) days of receipt of such request or mandate.
- (k) <u>Transmitting Electronic PHI</u>. Electronic PHI transmitted or otherwise transferred from between Covered Entity and Business Associate must be encrypted by a process that renders the Electronic PHI unusable, unreadable, or indecipherable to unauthorized individuals within the meaning of HITECH Act § 13402 and any implementing guidance including, but not limited to, 42 C.F.R. § 164.402.
- 6. IN WITNESS WHEREOF, the Parties hereto have executed this BAA to be effective on the date set forth above.

Covered Entity Signature on File		Business Associate  Signature on File  Signature on File
Name: <u>Lisa Bond</u>	_	Name ( John Miller Tom Barlow
Title:Director		Title: VP Finance / UP Services Services
Date: _ 5\5 16		Date: 5/3/16

### **APPENDIX C:** Service Specifications



Division of Services for Aging and Adults with Physical Disabilities

# Money Management Program Service Specifications

### **Revision Table**

Revision		Description	
Date	Revised		
12/18/2013		Original specifications	
4/26/2016	8.1.7 & 8.2.1	8.1.7 removed (QA) 8.2.1 remove financial registry/fingerprinting – C. Mercer	



Division of Services for Aging and Adults with Physical Disabilities

# Money Management Program Service Specifications

### 1.0 SERVICE DEFINITION

- 1.1 The Delaware Money Management Program (DMMP) offers assistance to low-income seniors and adults with physical disabilities.
- 1.2 The program assists eligible consumers who have difficulty budgeting, paying routine bills, writing checks and/or keeping track of financial matters.

### 2.0 SERVICE GOAL

2.1 DMMP's goal is to promote and prolong independent living for individuals who are at risk of losing their independence due to inability to manage their financial affairs.

### 3.0 SERVICE UNIT

3.1 The unit of service is one month for one consumer.

### 4.0 SERVICE AREA

4.1 Services must be provided Statewide:

### 5.0 SERVICE LOCATION

5.1 Money management services are generally provided in the consumer's home but may be provided in other community settings based on the needs of the consumer.

### 6.0 ELIGIBILITY

6.1 DSAAPD will determine eligibility for Money Management services and refer consumers to the provider.

### 7.0 PROGRAM DESCRIPTION

- 7.1 The DMMP has three components:
  - 7.1.1 Bill paying services help the consumer keep his/her finances in order by providing support in managing a budget and writing checks for the consumer to sign. Tasks include:
    - 7.1.1.1 Opening and organizing mail and bills
    - 7.1.1.2 Developing a household budget
    - 7.1.1.3 Preparing checks for the consumer's signature
    - 7.1.1.4 Assisting consumers with monitoring and maintaining the bank account
  - 7.1.2 Representative payee services provide assistance to consumers who are no longer able to manage their finances on their own. These services require appointment by a government agency such as the Social Security Administration in order to manage the consumer's government income for them. Representative payees:
    - 7.1.2.1 Apply for appointment by the Social Security Administration (or other government agency, if applicable) to manage the monthly benefits the consumer receives
    - 7.1.2.2 Write and sign checks from an account in which a benefit check is automatically deposited.



Division of Services for Aging and Adults with Physical Disabilities

# Money Management Program Service Specifications

- 7.1.2.3 Keep accurate records on how funds are used.
- 7.1.2.4 Provide required annual reports to the appropriate government agency (e.g., Social Security Administration).
- 7.1.2.5 May intervene with creditors.
- 7.1.3 Monthly reconciliation of consumer accounts for oversight and consumer protection purposes. Tasks include:
  - 7.1.3.1 Performing monthly consumer account monitoring.
  - 7.1.3.2 Submitting a copy of consumers' monthly account statements and the Monthly Financial Report to the division designee by the 5<sup>th</sup> of each month.
- 7.2 The DMMP may follow a volunteer services model, an employee model or a combination of both.
  - 7.2.1 Initial consultation or assessment must be done by an employee.
  - 7.2.2 Bill paying and representative -payee services can be done by volunteers or employees
  - 7.2.3 Monthly reconciliation activities may be done by an employee or a volunteer 7.2.3.1 If a volunteer is doing monthly reconciliations they may not provide bill paying or representative payee services.

### 8.0 SERVICE STANDARDS

- 8.1 General Service Standards:
  - 8.1.1 The provider must comply with all applicable Federal, State, and local rules, regulations, and laws applying to the provision of the service.
  - 8.1.2 All staff providing the service must be qualified and the provider must have a written job description for each job category and written personnel policies.
  - 8.1.3 The provider must develop and maintain policies and procedures for the delivery of money management services.
  - 8.1.4 The provider must notify the consumer of any change in schedule, or interruption of service.
  - 8.1.5 The provider must keep DSAAPD informed of all service delivery concerns.
  - 8.1.6 The provider must maintain the participant's right of privacy and confidentiality.
  - 8.1.7 The provider must establish a system through which participants may present grievances/complaints about the operation of the service.
  - 8.1.8 The provider must make a reasonable effort to consult with DSAAPD to resolve problems that threaten the continuity of a participant's service. Any decision to terminate service must be discussed first with DSAAPD and then the participant before action is taken.
  - 8.1.9 The provider must establish contact with the participant to begin the assessment within ten (10) calendar days of referral.
  - 8.1.10 The provider must utilize a thorough assessment process that identifies the consumer's money management needs.
  - 8.1.11 The provider must offer information and referral to other programs for which the consumer might be eligible, including referral for assistance for accessing public benefits;



Division of Services for Aging and Adults with Physical Disabilities

# Money Management Program Service Specifications

- 8.2 Additional Service Standards for Providers Using Volunteers
  - 8.2.1 Provider agency will conduct criminal background checks on all volunteers, and will ensure service providers are cleared through Adult Abuse and Child Abuse registries.
  - 8.2.2 Hold an in -person introductory meeting with the consumer and volunteer.
  - 8.2.3 Offer volunteers reimbursement for mileage at the rate that is equal to the state business travel reimbursement rate.
  - 8.2.4 Train volunteers prior to pairing them with consumers.
- 8.3 Prohibited Activities:
  - 8.3.1 Provision of services to a consumer who is a resident of a nursing home:
  - 8.3.2 Provision of services to out-of-state residents.

### 9.0 PROVIDER QUALIFICATIONS

- 9.1 The provider must utilize volunteers and/or employ staff member(s) with knowledge, experience, and abilities sufficient to carry out Money Management Services.
- 9.2 The provider must have the capacity, either internally or through established networks, to communicate with non-English-speaking consumers.

### 10.0 INVOICING REQUIREMENTS

- 10.1 The provider must invoice DSAAPD pursuant to the DSAAPD Policy Manual for Contracts, Policy X-Q, and Invoicing.
- 10.2 The following information must be included in the invoice, in addition to the items referenced in the Policy Manual:
  - 10.2.1 Number of service units provided
  - 10.2.2 Amount of DSAAPD funds expended

### **APPENDIX E:** DSAAPD Policy Manual For Contracts

(Included by Reference)

Link to DSAAPD Policy Manual for Contracts:

http://dhss.delaware.gov/dhss/dsaapd/files/dsaapd provider manual.pdf

### APPENDIX F: The Request For Proposal (Included by Reference)

Refer to DSAAPD RFP #14-011

### G. Work Plan

### 2.0 SERVICE GOAL

Easter Seal's program goal for the Money Management Program is to assist participants who wish to remain living in the community of their choice to receive the support and assistance to remain financially sound. Each participant will receive the level of assistance that best meets their needs. For participants who are unable to manage their monthly financial obligations independently, Easter Seals will assign a 'Representative Payee' to manage those obligations. For participants who are able to instruct someone on what to pay and how much to pay but are unable to physically write a check or use a computer they will be supported by a 'Bill payer' who will follow the direction of the participant.

### 3.0 Service Unit

A "one-month" unit of service will be billed for each participant served each month.

### 4.0 Service Area

Easter Seals Delaware and Maryland's Eastern Shore proposes to provide Money Management services on a statewide basis. To address the current caseload as well as serve new clients and add new volunteers during FY17,a part time local coordinator will be maintained in Sussex County, with a statewide coordinator working out of Easter Seals New Castle office under the general direction of the Director of In Home Services located at 61 Corporate Circle, New Castle DE. Kent County clients may be managed by either coordinator.

### 5.0 SERVICE LOCATION and hours of operation

Each Easter Seals office is open Monday-Friday 8:00 AM 4:00 PM. Easter Seals Money Management Program staff will be available to provide support to participants and volunteers during regular office hours each week. Volunteers will meet with clients on pre-arranged schedules and days including after-hours and weekends as need dictates. Easter Seals Money Management Coordinator will be available to volunteers during off hours in the case of emergencies or if critical issues arise during any meeting with a participant.

Easter Seals Center locations: New Castle 61 Corporate Circle New Castle DE 19720 302.221.2008

Dover 100 Enterprise Place Suite 1 Dover DE 19904

Georgetown 22317 DuPont Highway

Georgetown DE 19947

All of Easter Seals facilities are fully accessible and offer conference room space where volunteers and participants are able to meet if an in-home visit is not feasible or safe.

### 6.0 ELIGIBILITY

Eligibility for the Money management Program will be determined by DSAAPD. Referrals will be received by Easter Seals staff via DSAAPD's Service Referral Form. The first contact with clients will be Easter Seals statewide or local program coordinator.

### 7.0 PROGRAM DESCRIPTION

- 7.1 The DMMP has three components:
- **7.1.1** Bill paying services help the consumer keep his/her finances in order by providing support in managing a budget and writing checks for the consumer to sign. Tasks include:

### 7.1.1.1 Opening and organizing mail and bills

Bill payer clients always remain in control of decisions about their funds. Easter Seals statewide or local coordinator will conduct an initial visit to determine the level of support a participant will require in order to fulfill his or her monthly financial obligation; part of this assessment will include the person's ability to receive and maintain mail in an orderly manner in order to ensure all bills are paid on time when due. This will enable the volunteer who works with the client to identify all of his/her typical monthly income and expenses.

### 7.1.1.2 Developing a household budget

In order to spend funds in the client's best interests, the first priority is to meet the day-to-day needs for food and shelter. The volunteer will assist the participant to develop a realistic budget that identifies critical needs first such as food and shelter needs, then ensuring expenses for medical care that are not covered by Medicare or Medicaid are identified in the budget as well as personal needs such as clothing. The volunteer will also assist the participant to identify other occasional expenses that occur throughout the year such as homeowners/renters insurance, auto insurance, taxes, etc.

### 7.1.1.3 Preparing checks for the consumer's signature

Each client must identify a "designated account." All checks prepared by the volunteer are drawn from this account. This account provides a logical boundary for the documents and bank statement that will be reviewed by local program coordinator/volunteer monitor as applicable. The designated account may be the client's current checking account. It is not necessary to open a new account, however, if another person is listed on the account as a co-owner or the account has a balance that is near or exceeds the \$3,500 designated account limit, the participant will be advised to open a new 'Bill Payer' account to use as the designated account. All necessary checks would then be written from the new account, and the volunteer will not have any access to the checks from the initial account.

For persons enrolled in the 'Bill Payer' component of the program they will be informed that the volunteer has no authority to assist with check writing from any account except the one designated by the participant. Also to protect the participant, the volunteer, and the Money Management Program, volunteers will be required to submit copies of the monthly bank statement, and a Monthly

Financial Report listing all activity in the designated account.

### 7.1.1.4 Assisting consumers with monitoring and maintaining the bank account

In order to safeguard the participant's funds Easter Seals will incorporate the following monitoring activities for each designated account in the Bill payer component of the program:

- each volunteer will establish an initial list of the client's typical monthly income and expenses, to help the monitor know whether regular expenses are being paid
- a client service agreement form will be used for all clients describing the safeguards that Easter Seals has in place to protect the participant's funds
- the participant will designate an account from which bills will be paid
- the designated account can be the participant's existing checking account
- by signature the participant will affirm his or her understanding that the account that no more than \$3,500 should be held in the designated account
- Easter Seals will provide contact information to each participant of who to call if any problems arise
- all bill payer volunteers will complete and submit to Easter Seals a monthly financial activity report
- Easter Seals staff will conduct an annual satisfaction survey with all Bill Payer participants; this feedback will be used to make any necessary or suggested changes to the program
- in the case of physical or mental impairment rendering it unrealistic for the agency to check with the participant directly, Easter Seals will contact an appropriate participant representative
- Easter Seals will utilize third-party monitors (staff or volunteer) who
  review transactions in designated accounts at least quarterly. This
  review will include a review of all bank statements and canceled
  checks (or check images).
- unresolved problems and/or issues will be followed-up within 60 days
- Easter Seals will notify bill payer volunteers of any problems or questions regarding a participant's account,
- volunteers will be required to document any follow-up action taken
- telephone or face-to-face communication regarding problems will be documented in the participant's file in a paper or electronic format that includes the person's name, date of entry, time of entry, signature and title as appropriate; all entries are to be legible
- All participant files will contain at a minimum:
  - client service agreement
  - list of typical monthly income and expenses
  - o monthly financial reports from volunteers
  - o copies of corresponding bank statements
  - o documentation of annual client satisfaction contacts
  - o quarterly financial monitoring
  - o correspondence and notes regarding resolution of any problems with the account

- 7.1.2 Representative payee services provide assistance to consumers who are no longer able to manage their finances on their own. These services require appointment by a government agency such as the Social Security Administration in order to manage the consumer's government income for them. Representative payees:
- 7.1.2.1 Apply for appointment by the Social Security Administration (or other government agency, if applicable) to manage the monthly benefits the consumer receives

Easter Seals will assist volunteers to apply to the Social Security Administration to become Representative Payee for clients who are deemed appropriate for this service.

### 7.1.2.2 Keep accurate records on how funds are used.

Easter Seals will require that volunteers who are Representative Payees keep track of expenditures by:

- a. maintaining an account log, or computer accounting record that will make record keeping easier
- b. totaling expenses in each category (i.e., shelter, food, etc.) at the end of the month to monitor how much was spent and whether to make budget adjustments
- c. maintaining a file of receipts according to specific categories
- d. utilize the information is in preparing the report to SSA

# 7.1.2.2Provide required annual reports to the appropriate government agency (e.g., Social Security Administration)

Easter Seals will assist the volunteer Representative Payee to complete annual SSA report when it is received each year.

### <u>7.1.3</u>

Easter Seals will assist clients and their volunteer Representative Payees to understand their legal rights and obligations concerning payments from federal agencies. Monthly reconciliation of client accounts for oversight and client protection purposes.

### 7.1.3.1 Performing monthly consumer account monitoring.

- a. Easter Seals will provide third party monthly monitoring of every participant account (bank statement and canceled checks or check images, when available) to make sure that the client's benefits are spent appropriately on meeting the participant's basic needs. Easter Seals will establish and maintain the following quality control procedures:
- b. Easter Seals will establish and maintain the following quality control procedures:
  - The statewide coordinator will review each month a random sample of case files to determine whether monitors are monitoring accurately. Files should be selected so that the work of all volunteers is periodically reviewed.
  - Volunteer monitors will rotate the accounts they are assigned to work on, so that several different individuals review the account over the course of the year.
  - The statewide coordinator will provide on-going (individual or small group) inservice training and discussion of monitoring procedures.
  - Easter Seals will give each participant written information (name, address and phone number) about the agency representative to call if any problems arise.
  - Easter Seals shall check with the participant at least one time each year to ascertain the extent of the participant's satisfaction with the service and to determine whether any modifications or corrective actions are necessary. In the

case of physical or mental impairment rendering it unrealistic for the agency to check with the client directly, the agency may contact an appropriate client representative, only if the client has signed a Release of Information allowing such discussion.

- 7.1.3.2 Submitting a copy of consumers' monthly account statements and the Monthly Financial Report to the division designee by the 5<sup>th</sup> of each month.
- 7.2 The DMMP may follow a volunteer services model, an employee model or a combination of both.
- 7.2.3 Initial consultation or assessment must be done by an employee.

The local coordinator will arrange a visit to complete the participant interview and assess the participant's:

- personality
- characteristics
- cognitive status
- physical environment
- location where services will be provided

Once the assessment is completed the coordinator will complete the client interview form and execute the initial client service agreement.

The Easter Seals program coordinator must always accompany the volunteer for the introductory visit.

As part of the client interview/assessment process, the program coordinator explains the Money Management Program benefits and parameters to the participant to make sure that he/she understands and is willing to cooperate.

### 7.2.4 Bill paying and representative-payee services can be done by volunteers or employees

Easter Seals will use the volunteers to fulfill the Bill payer and Representative Payee functions.

- 7.2.5 Monthly reconciliation activities may be done by an employee or a volunteer Easter Seals will use both paid staff and volunteers to conduct the monthly monitoring and reconciliation of participant accounts and activities as appropriate.
- 7.2.5.1 If a volunteer is doing monthly reconciliations they may not provide bill paying or representative payee services.

### **SERVICE STANDARDS**

- 8.1.1 The provider must comply with all applicable Federal, State, and local rules, regulations, and laws applying to the provision of the service.

  The Program Coordinator will be responsible to monitor all applicable laws, regulations, and rules as they pertain to the Money Management Program
- 8.1.2 All staff providing the service must be qualified and the provider must have a written job description for each job category and written personnel policies.

Easter Seals Delaware has a fully staffed HR department that ensures that all positions within the agency have a job description for each position in force within the agency. (See Job Descriptions for Money Management staff).

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  - 8.1.3 The provider must develop and maintain policies and procedures for the delivery of money management services.

Upon notification of an awarded contract, Easter Seals will draft procedures for the Money Management Program modelled after the well-established AARP model for the program. The procedures will be overlaid with Easter Seals standard policies that guide all of the agency's programs and operations.

8.1.4 The provider must notify the consumer of any change in schedule, or interruption of service.

Easter Seals Money Management Program staff will be responsible to keep all consumers informed of schedule, program, and operational changes that impact their services.

8.1.5 The provider must keep DSAAPD informed of all service delivery concerns.

Easter Seals has an established link with DSAAPD case managers and maintains communications with them on all issues that impact consumers' services.

8.1.6 The provider must maintain the participant's right of privacy and confidentiality.

Easter Seals complies with all HIPAA regulations and follows these steps:

**Client / Participant Information:** 

- 1. All client or participant protected health information is strictly confidential and can be shared only with those who have a "need to know" in the due course of business and operations, and only in a secure area. The "need to know" is defined as that which is necessary for one to perform one's specific job responsibilities adequately.
- 2. Each client or participant will be treated with respect and provided privacy when receiving services at Easter Seals. Discussions about a client / participant will be confidential and conducted discreetly. Persons not involved in the service delivery will not be permitted to be present during discussion unless the client has given informed consent.
- 3. Clients or participants from whom confidential information is elicited will be informed of Easter Seals' policy and purposes for collecting the information.

#### **Confidentiality Breaches:**

- "Carelessness" is defined as a breach that occurs when an employee unintentionally or carelessly accesses, reviews or reveals himself/herself or others without a legitimate need to know the client / participant protected health information. Carelessness is a minor infraction. Some examples of carelessness include, but are not limited to, employees discussing client/participant protected health information in a public area, employees leaving a copy of client / participant protected health information in a public area, employees leaving a computer work station unsecured. A public area is any unsecured area or an area of public access.
- 2. "Curiosity or Concern" is defined as a breach when an employee accesses, reviews, discusses client / participant protected health information for purposes other than care of the client / participant. This is considered a major infraction. Some examples of curiosity or concern include an employee looks up birthdates, addresses of friends or relatives; accesses and reviews a client / participant record out of concern or curiosity; reviews a "famous" or public person's record.

Tampering with incoming or outgoing mail, mail that has been distributed or any communication that is marked as confidential is prohibited. All interdepartmental mail of a

confidential nature is to be placed in a secure, confidential envelope and is to be opened by the addressee only.

3. "Personal Gain or Malice" is defined as a breach when an employee accesses, reviews, discusses client protected health information for personal gain or with malicious intent. This is a "critical" infraction.

#### Sanctions:

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- If a supervisor or manager believes a breach has occurred by an employee, after investigation, the progressive discipline process will be followed (see Sanction Policy.) Scope and severity of the outcome will assist in determining what level of progressive discipline is utilized, up to and including termination.
- 2. The employee who is sanctioned for breaching the confidentiality policy will be required to recertify the Confidentiality and Compliance policies with the Human Resources Department.
- 3. If applicable, the incident will be reported to the appropriate licensing board.
- 4. If an individual observes a breach of confidentiality, he or she shall report it to his/her immediate supervisor or the Vice President of Human Resources, who also serves as Easter Seals Privacy Officer. Failure to report a breach of confidentiality will result in disciplinary action.
- 5. Submitting a false report of a breach of confidentiality in bad faith or for malicious reasons will result in disciplinary action.

### **Employee Information:**

- 1. Employee records and confidential Human Resources materials are strictly confidential
- 2. Employee files are to remain in Human Resources secured in a locked cabinet with restricted access.
- 3. Employee files cannot be removed from the Human Resources Department without written authorization from the Administrator.
- 4. Employee records and health information are to be treated with the same respect and in the same confidential manner as client or participant information.
- 5. Breaches in employee confidential matters are the same as violating client or participant confidentiality and are grounds for disciplinary action up to and including termination following the same formula as for "breaches" of client confidentiality.
- 8.1.7 The provider must establish a system through which participants may present grievances/complaints about the operation of the service.

  Easter Seals informs all consumers of their right to have grievances addressed without repercussion:

### **Grievance Procedure**

Although informal resolution of program related problems is encouraged, Easter Seals recognizes that there may be problems requiring formal consideration and resolution. The Participant Grievance Procedure should be used to address concerns including human rights, except for allegations of abuse, neglect, exploitation, or misappropriation of participant funds; those allegations must be investigated according to Easter Seals abuse policy.

- 1. Any service related problems which a participant desires to have considered as a grievance should be submitted, in writing, to their program manager; a written response will be made within five (5) working days by the program manager. Staff is obligated to assist any participant with the writing and submission of a grievance if such assistance is needed.
- 2. If the grievance is not satisfactorily resolved, the participant may submit a written or oral grievance to the program manager's supervisor. The program manager's supervisor must respond, in writing, within five (5) working days.
- 3. If the grievance is not satisfactorily resolved, the participant may submit a written or oral statement of the grievance to the service line leader. The service line leader must respond, in writing, to the grievance within five (5) working days. A copy of the response is sent to the county director.
- 4. If the grievance is not satisfactorily resolved by the service line leader, the participant may submit a written or oral statement of the grievance to the Vice President of Programs. The Vice President will respond in writing to the grievance within five(5) working days.
- 5. If the grievance is not satisfactorily resolved, the participant may submit a written or oral statement of the grievance to the President of Easter Seals within five (5) working days following receipt of the Vice President's written response. The President and a committee representing the Board of Directors shall consider the grievance at its regular meeting during the month following the receipt of the grievance and shall respond in writing within fifteen (15) working days thereafter. The determination of the President shall be final.
- All documentation regarding the grievance should be filed in the participant's case record.
- 8.1.8 The provider must make a reasonable effort to consult with DSAAPD to resolve problems that threaten the continuity of a participant's service. Any decision to terminate service must be discussed first with DSAAPD and then the participant before action is taken.
- **8.1.9** The provider must establish contact with the participant to begin the assessment within ten (10) calendar days of referral.
- 8.1.10 The provider must utilize a thorough assessment process that identifies the consumer's money management needs.

  Easter Seals will conduct an assessment the meets both identified money management needs as well as addresses any issues and safety concerns that may impact on a volunteer's activities.
- 8.1.11 The provider must offer information and referral to other programs for which the consumer might be eligible, including referral for assistance for accessing public benefits;

Consumers will have access to Easter Seals case manager who is able to inform them of additional services they may be eligible for; this includes familiarizing consumers with the Delaware Aging and Disability Resource Center website.

- 8.1.12 Provider agency will secure state and federal criminal background checks that include fingerprinting, and will ensure service providers are cleared through Adult Abuse/Financial Exploitation, and Child Abuse registries.
  - All volunteers who have regular and routine contact with consumers must have satisfactory background checks in order to provide services to consumers.
- 8.1.13 Hold an in –person introductory meeting with the consumer and volunteer.

  The local Program Coordinator and/or the Statewide Program Coordinator will accompany volunteers on all initial meetings with consumers

8.2.1 Provider agency will secure background checks and will ensure service providers are cleared through Delaware state Adult and Child Registries.

Easter Seals will conduct background checks on all Money Management volunteers. The following are used to conduct background checks:

Standard employee criminal and/ or department of motor vehicles check is conducted through Easter Seals Human Resources department (see attached) http://www.intellicorp.net

Child Abuse Registry Checks are faxed to DSCYF at 302-633-5191 (see attached) Adult Abuse Registry Checks are performed on the DHSS website:

http://dhss.delaware.gov/dhss/dltcrp/Default.aspx

8.1.14 8.2.3Offer volunteers reimbursement for mileage at the rate that is equal to the state business travel reimbursement rate.

Volunteers will be reimbursed @ \$0.40/per mile when visiting a client under Easter Seals supervision.

8.1.15 8.2.4Train volunteers prior to pairing them with consumers.

Easter Seals will follow the training components that are outlined in the AARP Money Management Manual

### 8.3. Prohibited Activities:

Provision of services to a consumer who is a resident of a nursing home; Provision of services to out-of-state residents.

### 9.0 PROVIDER QUALIFICATIONS

- 9.1 The provider must utilize volunteers and/or employ staff member(s) with knowledge, experience, and abilities sufficient to carry out Money Management Services.

  Volunteers and staff will receive initial training per the AARP suggested training topics as well as annual money management-related continuing education as need may indicate.
- 9.2 The provider must have the capacity, either internally or through established networks, to communicate with non-English-speaking consumers.

  In order to accommodate consumers who do not have English as their first language, Easter Seals will actively recruit volunteers who are bilingual for the Money Management Program, as well as draw upon current staff and volunteer resources within the agency to communicate with consumers who do not have English a first language.

### 10.0 INVOICING REQUIREMENTS

- The provider must invoice DSAAPD pursuant to the DSAAPD Policy Manual for Contracts, Policy X-Q, and Invoicing.
- The following information must be included in the invoice, in addition to the items referenced in the Policy Manual:
- 10.2.1 Number of service units provided
- 10.2.2 Amount of DSAAPD funds expended