



**State of Louisiana**  
Department of Health and Hospitals

December 19, 2013

Magellan Medicaid Administration, Inc.  
Attention: Chief Financial Officer  
11013 W. Broad Street, Suite 500  
Glen Allen, VA 23060-5937

RE: Attachment A-LA, TOP\$<sup>sm</sup> Medicaid Program Participation Agreement between  
Magellan Medicaid Administration and the Louisiana Department of Health and  
Hospitals

Dear Chief Financial Officer:

Enclosed are two original agreements to the TOP\$<sup>sm</sup> Medicaid Program Participation Agreement between Magellan Medicaid Administration and the Louisiana Department of Health and Hospitals. Please return one of the originals to the Department of Health and Hospitals, Attention of Germaine Becks-Moody.

If you have questions or require additional assistance please contact Germaine Becks-Moody at (225) 342-7878 to answer your questions. We appreciate your continued patience and cooperation, and look forward to continuing a good working relationship between the Louisiana Department of Health & Hospitals and Provider Synergies/Magellan Medicaid Administration.

Very truly yours,

A handwritten signature in dark ink, appearing to read "J. Ruth Kennedy".

J. Ruth Kennedy  
Medicaid Director

MW/gbm

Attachments

**ATTACHMENT A-LA**  
**TOP\$<sup>SM</sup> MEDICAID PROGRAM PARTICIPATION AGREEMENT**

**FOR**  
**LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS**

The State of Louisiana acting by and through the Louisiana Department of Health and Hospitals, 628 North 4<sup>th</sup> Street, Baton Rouge, Louisiana 70821-9390 (hereinafter collectively referred to as "**Participating Medicaid Program**"), hereby enters into this TOP\$<sup>SM</sup> Medicaid Program Participation Agreement ("**Agreement**") effective this 1<sup>st</sup> day of January, 2014, with Magellan Medicaid Administration, Inc. ("**Administrator**").

**WHEREAS**, the Participating Medicaid Program administers Louisiana Medicaid pursuant to the Social Security Act (42 U.S.C. 1396 *et seq.*); and

**WHEREAS**, Administrator has negotiated and entered into agreements with prescription drug manufacturers ("**Manufacturers**") to provide discounts and rebates ("**State Supplemental Drug Rebate(s)**") on certain of such Manufacturers' drug products that are covered by the Participating Medicaid Program; and

**WHEREAS**, the Participating Medicaid Program is authorized to enter into State Supplemental Drug Rebate agreements pursuant to La.R.S. 46:153.3. and applicable portions of the L.A.C; and

**WHEREAS**, the Participating Medicaid Program represents and warrants that it is the intent and expectation of such Participating Medicaid Programs that Supplemental Rebates invoiced hereunder shall be excluded from Manufacturer's calculation of Best Price or AMP.

**WHEREAS**, the Participating Medicaid Program desires to access State Supplemental Drug Rebates; and

**WHEREAS**, the Participating Medicaid Program has contracted with Administrator for the provision of State Supplemental Drug Rebate contracting and preferred drug list ("PDL") administration services; and

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein, Participating Medicaid Program and Administrator agree as follows:

**Definitions**

**WHEREAS**, "**Controlling Agreement**" shall mean the contract between Administrator, as either a prime contractor or a subcontractor, and a Participating State pursuant to which Administrator is obligated to provide one or more of the following services to the Participating State: State Supplemental Rebate negotiation, contracting services, PDL design and maintenance, and pharmacy and therapeutics committee administration services.

**A-1. Obligations of Parties:** Participating Medicaid Program hereby agrees to participate in the multi-state State Supplemental Drug Rebate pooling program known as the The Optimal PDL Solution or TOP\$<sup>SM</sup>. Administrator agrees to negotiate and enter into State Supplemental Drug Rebate agreements

on behalf of Participating Medicaid Program and other state Medicaid agencies who agree to participate in TOP\$<sup>SM</sup>.

**A-2. Notices:** All written notices, requests and communications, unless specifically required to be given by a specific method, may be: (i) delivered in person, obtaining a signature indicating successful delivery; (ii) sent by a recognized overnight delivery service, obtaining a signature indicating successful delivery; (iii) sent by certified mail, obtaining a signature indicating successful delivery; or (iv) transmitted by telefacsimile, producing a document indicating the date and time of successful transmission, to the address or telefacsimile number set forth below. A party may at any time give notice in writing to the other parties of a change of name, address, telephone, or telefacsimile number.

**To Participating Medicaid Program:**

Louisiana Department of Health and Hospitals  
Attention. Melwyn Wendt  
628 North 4<sup>th</sup> Street  
P.O. Box 91030  
Baton Rouge, LA 70821-9030

Telephone: (225) 342-7878  
Telefacsimile: (225) 342-1980

**To Administrator:**

Magellan Medicaid Administration, Inc.  
Attention: Chief Financial Officer  
With a copy to: Legal Department  
11013 W. Broad St.  
Suite 500  
Glen Allen, Virginia 23060-5937

**A-3. Term.** This Agreement shall be effective as to Participating Medicaid Program as of the date herein stated above in this Agreement subject to CMS authorization and shall continue in effect until December 31, 2014. Thereafter, this Agreement shall automatically renew for successive one (1)-year terms, unless this Agreement is otherwise terminated as provided for in this Agreement or until such time as the Controlling Agreement between the Participating Medicaid Program and Administrator is terminated. Notwithstanding the forgoing, no rebates shall accrue hereunder with respect to any drug product until the latter of the date: (i) such drug product is effective upon public dissemination of Participating Medicaid Program's Preferred Drug List via website for providers and prescribers, (ii) the applicable Manufacturer Participation Agreement is fully executed and returned to the Manufacturer, or (iii) the effective date of CMS approval of the Participating Medicaid Program's applicable state plan amendment.

**A-4. Termination Without Cause by Participating Medicaid Program.** Notwithstanding any contrary provision in this Agreement, this Agreement may be terminated by Participating Medicaid Program as to the entirety of Participating Medicaid Program's participation herein, or as to any Manufacturer Supplemental Covered Product(s) or as to any NDC(s) at the option of Participating Medicaid Program



without cause as of the end of the calendar quarter upon thirty (30) days written notice to Administrator. Administrator will thereupon be obligated to notify Manufacturer of such termination in writing. In the event that Administrator is no longer contracted to provide or administer Preferred Drug List and State Supplemental Rebate services, the Participating Medicaid Program may not disseminate information regarding the State Supplemental Drug Rebates to any nonparties to this Agreement, except as may be required by law or necessary for the reconciliation of State Supplemental Drug Rebate invoices.

**A-5. Addition of Participating Medicaid Programs.** Any Medicaid program which has the necessary state and CMS authorizations to operate a PDL and State Supplemental Drug Rebate program and which is contracted to utilize Administrator to administer its PDL and State Supplemental Drug Rebate program is eligible to join TOP\$<sup>sm</sup> as a Participating Medicaid Program subject to CMS authorization. Upon the expansion or contraction of TOP\$<sup>sm</sup>, to either include a state Medicaid agency as a Participating Medicaid Program or exclude a Participating Medicaid Program, Administrator shall expressly notify in writing all Participating Medicaid Programs as to the identity of the newly included state Medicaid agency or the identity of newly excluded Participating Medicaid Program along with the effective date for such inclusion or exclusion.

**A-6. Addition of Participating Medicaid MCOs.** To the extent permitted by: (i) CMS, (ii) applicable law, and (iii) the Participating State Medicaid Program's Medicaid Plan, any Participating Medicaid Program added hereunder may elect, but shall not be required, to include Medicaid Utilization from Participating Medicaid MCOs in their Supplemental Rebate invoices, provided that the Participating Medicaid Program provide to Administrator an executed and complete copy of Attachment A-2 indicating such election, well as a copy of the applicable Participating Medicaid Program's Medicaid Plan (and/or amendment thereto) permitting such election. Supplemental Rebates shall begin to accrue to any new Participating Medicaid MCO pursuant to this Agreement for a Supplemental Covered Product upon the later of: (i) Administrator receiving the applicable State's complete and executed Attachment A-2 electing to include Participating Medicaid MCO utilization hereunder, or (ii) effective date for such Participating Medicaid MCO utilization, as set forth on Attachment A-2. The Participating Medicaid Program shall be solely responsible for ensuring that all Participating Medicaid MCOs for which utilization is invoiced for Supplemental Rebates comply with all applicable terms and conditions of this Agreement and applicable law, the State Medicaid Plan, and the Medicaid Program's contracts with its Medicaid MCOs.

**A-7. Bankruptcy and Insolvency.** Participating Medicaid Program shall have the right to cancel this TOP\$<sup>sm</sup> Medicaid Program Participation Agreement immediately without prior notice in the event that Manufacturer is adjudicated bankrupt, or makes an assignment for the benefit of creditors without Administrator's and the Participating Medicaid Program's prior written consent, which shall not be unreasonably withheld, or in the event that a receiver is appointed for Manufacturer.

**A-8. Transfer of Manufacturer Supplemental Covered Product(s) to TOP\$<sup>sm</sup>.** Participating Medicaid Program and Administrator agree that Participating Medicaid Program will realize optimal savings if the Supplemental Covered Products listed on current State Supplemental Drug Rebate agreement(s) between Participating Medicaid Program and Manufacturer are transferred to this Agreement within one (1) year.

IN WITNESS WHEREOF, the Participating Medicaid Program and Administrator have caused this Agreement to be executed on the dates shown below by representatives authorized to bind the respective parties.

Administrator

Louisiana Department of Health  
and Hospitals

By: \_\_\_\_\_

By: *J. Ruep*

Title: \_\_\_\_\_

Title: *Medical Director*

Date: \_\_\_\_\_

Date: *12.19.13*

**ATTACHMENT A-1**

***RESERVED***



**ATTACHMENT A-2  
ATTESTATION OF INCLUSION/EXCLUSION OF MEDICAID MCOs**

The State of Louisiana, acting by and through the Louisiana Department of Health and Hospitals (hereinafter collectively referred to as "**Participating Medicaid Program**"), hereby represents and warrants the following with respect to Medicaid MCOs (**must check one**):

☐ Effective for utilization dispensed to Participating Medicaid MCO members on or after \_\_\_\_\_ (date\*), the Participating Medicaid Program will include utilization of Participating Medicaid MCO(s) for State Supplemental Drug Rebates under this Agreement. I certify on behalf of the Participating Medicaid Program listed below that the State Medicaid Plan permits the inclusion of Medicaid MCO utilization in State Supplemental Drug Rebates, and that the State's contracts with Participating MCOs do not prohibit such inclusion. I further certify on behalf of the Participating Medicaid Program listed below that the State has reasonably determined that: (i) the utilization of any Participating Medicaid MCO submitted hereunder is eligible for National Rebates under 42 U.S.C. § 1396r-8 and (ii) each such Participating Medicaid MCO shall align their respective formulary(ies) and/or preferred drug list(s), as applicable, assuring access to preferred Supplemental Covered Product is no more restrictive than the Participating Medicaid Program Medicaid PDL, for any period with respect to which the Participating Medicaid Program will invoice for Supplemental Rebates for utilization under this Agreement. It is the intent and expectation of the Participating Medicaid Programs that Supplemental Rebates hereunder shall be excluded from Manufacturer's calculation of Best Price or AMP. *If this option is checked, the State must have documented the above determination via applicable regulation, law, contract, or other formal state agency issuance and the State must attach hereto: (1) a copy of such documentation, as well as (2) a copy of the applicable Participating Medicaid Program's Medicaid Plan (and/or amendment thereto) permitting the election of this option.*

☒ The Participating Medicaid Program will exclude utilization from all of its Medicaid MCO(s) under this Agreement.

☐ The Participating Medicaid Program has no Medicaid MCOs.

MANUFACTURER CONSENT SHALL NOT BE REQUIRED FOR A STATE TO AMEND THIS ATTACHMENT A-2.

**So Certified:**

State Participating Medicaid Program: Louisiana Department of Health and Hospitals

By: 

Title: Medicaid Director

Date: 12-19-13

\* Effective date for including Participating MCO utilization shall not predate the date this Attachment A-2 is executed by the State