

MEMORANDUM OF AGREEMENT¹

between
Livanta LLC and
[provider name]

I. Agreement

A. Parties

The parties to this agreement (hereinafter “MOA” or “Agreement”) are Livanta LLC, the Beneficiary and Family Centered Care-Quality Improvement Organization (hereinafter “BFCC-QIO”) and [provider name] (hereinafter “Provider”).

B. Statutory Specifications and Other Authority

Section 1154(a)(1) of the Social Security Act (the “Act”) requires Quality Improvement Organizations (QIOs) to review services furnished to Medicare beneficiaries by “physicians and other health care practitioners and institutional and non-institutional providers of health care services.”

Section 1154(a)(4)(A) of the Act requires that a reasonable proportion of the QIO’s activities are involved in reviewing, under paragraph (a)(1)(B), the quality of services and that a reasonable allocation of these activities be made among different settings.

Section 1154(a)(14) of the Act requires that a QIO conduct an appropriate review of all written complaints from beneficiaries about the quality of services not meeting professionally recognized standards of care.

Section 1866(a)(1)(F)(i) of the Act requires hospitals that provide inpatient hospital services paid under the prospective payment system (PPS) to maintain an agreement with a QIO to review the validity of diagnostic information provided by such hospital, the completeness, adequacy, and quality of care provided, the appropriateness of admissions and discharges, and the appropriateness of care provided for which the hospital is seeking additional payments.

Section 1866(a)(1)(F)(ii) of the Act and section 3000 of the QIO Manual require hospitals, critical access hospitals (CAHs), skilled nursing facilities (SNFs), home health agencies (HHAs), comprehensive outpatient rehabilitation facilities (CORFs), and hospices to maintain an agreement with the QIO to perform certain functions listed in section 1866(a)(3)(A).

Section 1866(a)(3)(A) of the Act requires QIOs, under the MOA, to perform functions described under the third sentence in section 1154(a)(4)(A) related to the quality of services and section 1154(a)(14) related to beneficiary complaints.

¹ Based on QIO Manual Exhibit 3-2 - Model Memorandum of Agreement (MOA) for Providers.

Section 1869(b)(1)(F) of the Act requires the Secretary to provide an expedited determination or an expedited reconsideration for Medicare beneficiaries who have been notified of their impending termination of services or discharge from a comprehensive outpatient rehabilitation facility, home health agency, hospice, or skilled nursing facility; under 42 CFR Part 405, Subpart J, the QIO for a region is required to hear and make these determinations and reconsiderations.

II. QIO Program

The Quality Improvement Organization (QIO) Program originated with the Peer Review Improvement Act of 1982 and is authorized by Title XI Part B and Title XVIII of the Act.

The goal of the QIO program is to improve the quality of care for Medicare beneficiaries to include addressing individual complaints or requests for QIO review and to protect the Medicare Trust Fund. The QIO program is to achieve this goal through the performance of various case review directives promulgated by the Centers for Medicare & Medicaid Services (CMS) in the QIO contract, as discussed below.

III. Purpose of Agreement

The purpose of this Agreement is to define the administrative relationship that will exist between parties in the exchange of data and information. This MOA is required by the Medicare statute and regulations, as well as the QIO Manual and certain QIO contract directives.

This Agreement is also intended to be informational. BFCC-QIO wants to inform hospitals, CAHs, SNFs, HHAs, CORFs, and hospices of

- a. BFCC-QIO procedures with respect to certain contractual obligations,
- b. Review and appeal rights, which providers have with respect to these obligations, and
- c. Opportunities providers have to collaborate with Livanta in local and national quality improvement projects.

IV. Effective Date

This Agreement shall be effective upon execution by both parties and shall remain in effect so long as Livanta LLC is a BFCC-QIO under contract with CMS for the CMS-identified region in which Provider is located, until terminated in accordance with Section VIII of this Agreement, or until Provider withdraws or is terminated from the Medicare program.

V. Responsibilities of Parties

MOAs with hospitals, HHAs, SNFs, CORFs, hospices, and CAHs reflect the specific QIO review responsibilities referenced in sections 1866(a)(1)(F), 1866(a)(3)(A), 1154(a)(4)(A), and 1154(a)(14) of the Act as well as the responsibilities of each provider regarding QIO contract activities. Also, see sections 3000, 3010, and 3015 of the QIO Manual.

At a minimum, the MOA stipulates that a reasonable proportion of QIO activities are involved in reviewing, under section 1154(a)(1)(B) of the Act, the quality of provider services and that a reasonable allocation of these activities is made among different settings.

Also, section 1154(a)(14) of the Act requires that QIOs conduct an appropriate review of written complaints from beneficiaries about the quality of services not meeting professionally recognized standards of care.

In addition, BFCC-QIO agrees that it will assume responsibility for performing the following activities mentioned in the terms of the Medicare QIO contract:

A. QIO Responsibilities

The list of QIO responsibilities in the areas below is not all-inclusive. Many QIO activities are specified in the QIO contract and may change with each CMS contract period. BFCC-QIO may assume the federally mandated responsibility for performing the following Medicare review activities:

1. Case reviews that involve non-physician screening and physician review of patient medical records that are required in the QIO contract. Mandatory case review categories include Emergency Medical Treatment and Active Labor Act (EMTALA), assistant surgeon at cataract surgery, beneficiary complaints, hospital notices of non-coverage, important message from Medicare appeals of hospital discharges, and Medicare appeal rights (including MHP fast-track appeals and termination of services or discharge from a CORF, HHA, hospice, or SNF), hospital-requested HWDRG adjustments, short stay reviews, potential concerns identified during project data collections, and referrals made by the Office of Inspector General (OIG), Medicare Administrative Contractors (MACs), and CMS.
2. Communication activities that educate beneficiaries about how to exercise their rights to QIO reviews and that provide information for the education of healthcare providers, beneficiaries, and others responsible for payment about QIO review determinations and rights to reconsideration and appeal.
3. Referral to other QIO entities under contract with CMS that are responsible for quality improvement initiatives and that may be able to assist in identifying the root cause of a concern, develop a framework in which to address quality of care concerns, and improve a process or system.
4. Other review activities, including, but not limited to, annual monitoring of Medicare physician attestation statements.

B. Provider Responsibilities

Providers of services that submit Medicare claims to CMS must cooperate in the assumption and conduct of QIO review in accordance with 42 CFR 476.78. Provider must perform all of the following actions:

1. Submit patient medical records and other information to BFCC-QIO as requested within the timeframes identified in the medical record request, which are needed for conducting offsite review activities. Provider must send patient medical records and other information to BFCC-QIO electronically in accordance with Final Rule 1735-F.

2. Allocate adequate space to QIO staff for conducting onsite review and cooperative project activities, if requested by the QIO, and provide patient medical records and other related information at the time of the QIO's visit or upon receipt of a written request for patient medical record documentation.
3. Adhere to applicable federal laws and regulations that protect the confidentiality of medical review information as well as applicable state laws and regulations.
4. Request technical assistance from the QIO or accept technical assistance from the QIO assigned by CMS to support quality improvement activities.
5. Acute facilities only: When possible, for purposes of physician acknowledgment monitoring on an annual basis, use the Livanta online system at <https://pam.livanta1.com> to provide copies of:
 - a. A list of new physicians within the requested timeframe;
 - b. A copy of all signed physician attestations for each new physician enrolling in the Medicare program within the requested timeframe; and
 - c. Any signed penalty statements within the requested timeframe.
6. When possible, agree to receive BFCC-QIO decision notifications in a method agreed to by the parties.
7. Identify contact(s)/liaison(s) between Provider and BFCC-QIO for the following functions:
 - a. Routine medical record requests for non-appeal case review communications,
 - b. Appeals case review communications,
 - c. Other cases and information (general QIO liaison), and
 - d. Remittance address. Reimbursement (for medical record submission) in accordance with CMS Final Rule 1735-F.

These individuals will represent Provider for purposes of correspondence and communications between Provider and BFCC-QIO under this Agreement. The person(s) serving as a liaison between Provider and BFCC-QIO will be responsible for the maintenance of correspondence, the dissemination of BFCC-QIO information, the coordination of responses to BFCC-QIO inquiries, and any other duties related to BFCC-QIO activity as deemed necessary by Provider.

Within 30 days of a change to any Provider-designated contact(s)/liaison(s), Provider shall notify BFCC-QIO in writing of such changes.

8. On a minimum of an annual basis from the date of its last update, Provider shall submit to BFCC-QIO the then-current contact(s)/liaison(s) representing Provider.

VI. Confidentiality of Records and Other Data

BFCC-QIO and Provider recognize the inherent right of the individual to privacy and, at the same time, acknowledge the medical profession's need for adequate information in order to carry out activities under this Agreement.

To protect the confidentiality of data acquired by BFCC-QIO in carrying out its responsibilities under this contract, BFCC-QIO is bound by section 1160 of the Act and applicable regulations in 42 CFR Part 480. BFCC-QIO shall ensure the confidentiality and security of Provider's records and data from the time the records/data are acquired by BFCC-QIO until their destruction in accordance with the statute and regulations.

Provider shall adhere to the applicable state and federal laws, which protect the confidentiality of medical review information.

VII. Modification of Agreement

BFCC-QIO may amend this Agreement at any time as necessary to conform with any changes or modifications of relevant state or federal laws or applicable regulations, CMS transmittals, program directives, or instructions issued pursuant to applicable laws and regulations. In the event of such an amendment, BFCC-QIO shall provide Provider with notice of any such new or revised laws, regulations, CMS transmittals, program directives, or instructions, etc.

VIII. Termination of Agreement

This Agreement may be terminated, upon advance written notice by one party to the other, as specified below.

- A. By Provider without cause with 60 days prior written notice to BFCC-QIO if Provider determines that it is no longer required to be a party to this Agreement as a condition of participation in the Medicare program. Provider is responsible for notifying BFCC-QIO in writing at ProviderUpdate@Livanta.com about any change in its official Provider liaison to BFCC-QIO (e.g., CEO or Administrator), liaison(s), and/or contacts.
- B. In the event that BFCC-QIO's status as a QIO and/or Provider's status, as an institution qualified and eligible to receive reimbursement for services and items provided under the Medicare program, is terminated by CMS.
- C. In the event that CMS terminates this Agreement, BFCC-QIO shall notify Provider of termination.
- D. In the event that BFCC-QIO and Provider cannot agree to a modification to the Agreement. (In such a case, CMS must be given the opportunity to resolve the disagreement. See section IX.C. below).

IX. Miscellaneous Provisions

A. Severability

Should any clause, portion, or section of this Agreement be unenforceable or invalid, this shall not affect the enforceability or validity of the remainder of this Agreement. Should any particular provision(s) of this Agreement be held unreasonable or unenforceable for any reason, the provisions shall be given effect and enforced to whatever extent would be reasonable and enforceable.

B. Governing Law

To the extent procedures for resolving any dispute under this Agreement are not available through the Department of Health and Human Services, this Agreement and any disputes arising under it shall be governed by laws of the state of Provider's location.

C. Resolution of Disputes

If problems in the parties' relationship present themselves, or in the event a dispute arises between the parties, the parties shall attempt to resolve those differences in good faith. If a good faith dispute resolution should fail, BFCC-QIO shall notify CMS, and CMS shall advise the parties concerning the matter in dispute.

D. Notices

Notice from BFCC-QIO concerning this Agreement and periodic bulletins/newsletters from BFCC-QIO shall be provided by email and directed to the **official Provider liaison to BFCC-QIO** (e.g., CEO or Administrator) specified in the signature section below. Other notices from BFCC-QIO, which are issued as a result of activities required by this Agreement, shall be directed to the **liaison(s)/contact(s)** designated by Provider.

Communication from Provider in response to BFCC-QIO notices shall be directed to the individual or department specified in BFCC-QIO's notice.

E. Change of Ownership

In the event of a change of ownership of either party, the new owner(s) will assume all obligations in the current MOA.

F. Execution in counterparts

This Agreement, and any amendments to it, may be executed in counterparts all of which taken together shall constitute one agreement.

G. Agreement to Terms

The undersigned

- Acknowledges that this Agreement is made pursuant to Sections 1866(a)(1)(F) of the Act, 42 CFR Part 476, the QIO Manual, and certain QIO contract directives;
- Agrees to abide by the terms and conditions set forth; and
- Certifies he/she is authorized to submit changes to Provider's contact(s)/liaison(s).

Provider (Legal Name): [provider name]
Doing Business As: [dba name]
CMS Certification Number (CCN): [ccn]
National Provider Identifier (NPI): [npi]
Physical Street Address: [address line 1-3]
City [city]
State: [state]
Zip: [zip code]

General QIO Liaison²

All determinations and correspondence from the BFCC-QIO for items such as Quality of Care review, Short Stay review, or Higher Weighted case related information, MOA, and Physician Attestation Statements will be directed to this department.

Department [department]
Position/Title: [title]
Email: [email address]
Direct Secure Messaging (DSM)³ [DSM address]

² BFCC-QIO encourages providers to use an email address that is linked to a specific job title or has an automatic forwarding function to a distribution list, as opposed to an individual. BFCC-QIO has found that people change positions frequently, which could cause an individual's email address to become invalid.

³ Direct Secure Messaging (DSM) is NOT email. Please consult with your organization's Information Technology (IT) department or Electronic Medical Records (EMR) vendor to determine how to obtain DSM credentials that support accredited Health Information Service Provider (HISP) protocols.

Mailing Address: [address lines 1-3]
City: [city]
State: [state]
Zip: [zip code]
Phone #: [phone number] Extension: [extension]
Medical Record Confidential Fax #: [fax number]

I agree to conduct the signing of this MOA electronically: Yes No

Official Provider liaison to BFCC-QIO (e.g., CEO or Administrator):

Electronic Signature: [name and IP address]

Date: [signature date]

Title: [title]

Email: [email address]

(This email address will be used for official notices and/or newsletters from BFCC-QIO to Provider.)

Sample