



Division of Children's Health
Children and Youth with Special Health Care Needs (CSHCN) Program
**TERMS AND CONDITIONS
FOR DELIVERY OF AUTHORIZED SERVICES**

The information contained in this document applies to providers or vendors that deliver authorized CSHCN Program services for DHEC reimbursement.

Some providers and vendors authorized to deliver CSHCN Program services also have written contractual agreements with DHEC covering the same services. *Information in this document is contained in the TERMS AND CONDITIONS section of DHEC contract and/or the Confidentiality Agreement (DHEC 0321) that must be signed by all contractors.* Compliance with the terms and conditions contained in this document is an essential condition of contractual or other agency relationship with DHEC. Failure to adhere to these terms and conditions may result in termination of volunteer, contractual, or other work relationship with DHEC, and may be grounds for fines, penalties, imprisonment, or civil suit.

A. GENERAL AGREEMENTS

Providers or vendors accepting authorization (DHEC 0727) for CSHCN Program services:

1. Agree to retain records with respect to all matters related to the authorized services for six years after the service is rendered; as required by law; or until resolution of the audit findings if:
 - a. Audit has begun but is not completed at the end of the retention period; or
 - b. Audit findings have not been resolved at the end of the applicable retention period.
2. Agree to make such records available for audit or inspection at any time deemed necessary by DHEC
3. Agree to provide authorized services to eligible persons named in the authorization without denial or discrimination on the grounds of race, age, health status, disability, color, sex, religion or national origin. This includes the provision of language assistance services to individuals of limited English proficiency eligible for authorized services.
4. Agree to maintain professional, malpractice and general liability insurance, and may be required to provide DHEC with satisfactory evidence of such coverage.
5. Agree to comply with all applicable provisions of the Drug-free Workplace Act (S.C. Code of Laws, Section 44-107-10 et seq., as amended).
6. Agree that neither party:
 - a. Shall be liable for any claims, demands, expenses, liabilities and losses (including reasonable attorney's fees) which may arise out of any acts or failures to act by the other party, its employees or agents, in connection with the performance of authorized services pursuant to this contract.
 - b. Is an employee, agent, partner, or joint venturer of the other.
 - c. Has the right or authority to control or direct the activities of the other or the right or ability to bind the other to any agreement with a third party, or to incur any obligation or liability on behalf of the other party, unless expressly authorized by written contract.
7. Agree that:
 - a. The authorization, any dispute, claim, or controversy relating to the authorization, and all the rights and obligations of the parties shall, in all respects, be interpreted, construed, enforced and governed by and under the laws of the State of South Carolina, except its choice of law rules.
 - b. All disputes, claims or controversies relating to the Agreement shall be resolved in accordance with the South Carolina Procurement Code, Section 11-35-10 et seq., or in the absence of jurisdiction, only in the Court of Common Pleas for, or a federal court located in Richland County, South Carolina.
8. Certify that they have not been debarred or suspended under OMB Circular A-133 Compliance Supplement or otherwise from doing business with any governmental entity.

B. PREVENTING AND REPORTING FRAUD, WASTE AND ABUSE

DHEC has procedures and policies concerning the prevention and reporting of fraud, waste and abuse (FWA) in agency-funded programs, including but not limited to those funded by federal grants such as Medicaid.

Providers or vendors accepting authorization for delivery of CSHCN Program services understand that:

1. No DHEC employee, agent, or authorized provider shall direct, participate in, approve, or tolerate any violation of federal or state laws regarding FWA in government programs.
2. Federal law prohibits any person or company from knowingly submitting false or fraudulent claims or statements to a federally funded program, including false claims for payment or conspiracy to get such a claim approved or paid. The False Claims Act includes "whistleblower" remedies for employees who are retaliated against in their employment for reporting violations of the Act. Under State law, persons may be criminally prosecuted for false claims made for health care benefits, for Medicaid fraud, for insurance fraud, or for using a computer in a fraud scheme or to obtain money or services by false representations. Additional information regarding the federal and state laws prohibiting false claims and DHEC's policies and procedures regarding false claims may be obtained from the agency's Contracts Manager or Bureau of Business Management.
3. Any employee, agent, or authorized provider of DHEC who submits a false claim in violation of federal or state laws will be reported to appropriate authorities.
4. If the Authorized provider, their agents or employees have reason to suspect FWA in agency programs, this information should be reported in confidence to the agency. A report may be made by writing to the Office of Internal Audits, DHEC, 2600 Bull Street, Columbia, South Carolina 29201; or by calling the Agency Fraud, Waste and Abuse Hotline at 803-896-0650 or toll-free at 1-866-206-5202. The Authorized provider is required to inform Authorized provider's employees of the existence of DHEC's policy prohibiting FWA and the procedures for reporting FWA to the agency.

C. CONFIDENTIALITY

Providers or vendors accepting authorization for delivery of CSHCN Program services understand that:

1. DHEC has a legal and ethical responsibility to protect confidential information given or made available to DHEC in administration of the agency's programs and services. Confidential information is information known or maintained in any form, whether oral, written, or electronic, whether recorded or not, consisting of protected health information, other health information, personal information, personal identifying information, confidential business information, and other information required by law to be treated as confidential, designated as confidential by the Department, or known or believed by the provider, their agents or employees, to be confidential or entitled to confidential treatment.
2. The types of information that generally must be kept confidential include, but are not limited to: personal information of job applicants, DHEC employees, DHEC clients, or members of the public, such as an individual's photograph or digitized image, social security number, date of birth, driver's identification number, name, home address, telephone number, medical or disability information, physical or mental health, health care, payment for health care, education level, financial status and information, bank account numbers, account or identification numbers issued or used by any federal or state governmental agency or private financial institution, employment history, height, weight, race, other physical details, signature, biometric identifiers or other identifying information, credit records or reports, trade secrets, and confidential business information.
3. All information about personal facts and circumstances of DHEC employees, clients, or members of the public is confidential and will not be disclosed without written authorization of the individual to which it pertains unless disclosure is required by law, or otherwise required in accordance with this agreement and released to the Authorized provider after DHEC Office of General Counsel review.
4. If confidential information is disclosed pursuant to a properly completed authorization, documentation of the disclosure and a copy of the authorization must be maintained and made available for DHEC inspection and audit. In addition, confidential agency information and action shall not be disclosed unless DHEC authorizes the disclosure in writing, or the disclosure is required by law.
5. The Family Privacy Protection Act may place additional restrictions on the collection and disclosure of personal information. Information that is otherwise available to the public under the Freedom of Information Act may be released in accordance with State law.

6. Protected Health Information about DHEC clients generally cannot be disclosed without proper authorization by the client or his/her parent or legal guardian, or pursuant to a specific exception under the Health Insurance Portability and Accountability Act (HIPAA, 45 CFR Parts 160 and 164).
 - a. Confidential information released to the Authorized provider's employees/agents will be limited to the information minimally necessary in order to provide authorized services.
7. Unauthorized disclosure of confidential information may be grounds for fines, penalties, imprisonment, injunctive action, civil suit, or debarment from doing business with the State.
 - a. The authorized provider or vendor will immediately notify the DHEC Privacy Officer, 2600 Bull Street, Columbia, S.C. 29201 of unauthorized disclosure of protected health information or other types of confidential information that occurs in the course of providing authorized services.
8. The authorized provider or vendor and its employees/agents will be educated and trained regarding the Health Insurance Portability and Accountability Act of 1996 and related Regulations pertaining to the privacy and security of protected health information (the HIPAA Privacy and Security Rule) before participating in activity related to the delivery of authorized services.

D. INDEMNIFICATION

In this provision, "claims" means a claim, demand, suit, cause of action, loss or liability. Notwithstanding any other limitation in these Terms & Conditions, and to the fullest extent permitted by law, providers or vendors accepting authorization for delivery of CSHCN Program services:

1. Shall defend and hold DHEC its officers, directors, agents, and employees harmless from any claim made by a third party for bodily injury, sickness, disease or death, or for injury to or destruction of tangible property arising out of, or in connection with:
 - a. Any act or omission of Authorized provider, in whole or in part, in the performance of professional services pursuant to delivery of authorized services; or
 - b. Authorized provider's breach of this agreement, including any breach of confidentiality by a person to whom the Authorized provider disclosed confidential information in violation of this Contract.
2. Shall not be liable for any claims by a third party proven to have arisen or resulted solely from the negligence of DHEC.

This indemnification shall include reasonable expenses including attorney's fees incurred by defending such claims. DHEC shall provide timely written notice to the Authorized provider of the assertion of the claims alleged to be covered under this clause. Authorized provider's obligations hereunder are in no way limited by any protection afforded under workers' compensation acts, disability benefits acts, or other employee benefit acts. This clause shall not negate, abridge, or reduce any other rights or obligations of indemnity that would otherwise exist. The obligations of this paragraph shall survive termination, cancellation, or expiration of the authorization for delivery of CSHCN Program services.

E. OTHER PROVISIONS

Providers or vendors accepting authorization for delivery of CSHCN Program services agree to:

1. Maintain applicable federal and state licenses, certifications, and accreditations required for the provision of authorized services.
2. Notify DHEC immediately if a board, association, or other licensing authority takes any action to revoke or suspend the license, certification, or accreditation of Authorized provider or Authorized provider's employees or agents providing or performing services under this Contract.