

SECOND AMENDMENT  
TO THE  
HEALTH CARE SERVICES AGREEMENT BETWEEN  
KAISER FOUNDATION HOSPITALS  
AND  
**BHC FREMONT HOSPITAL, INC. DBA FREMONT HOSPITAL**

KAISER FOUNDATION HOSPITALS, a California nonprofit public benefit corporation ("KFH" or "KPCP") and BHC FREMONT HOSPITAL, INC. DBA FREMONT HOSPITAL, a California limited liability company ("Contractor") entered into a Health Care Services Agreement that was effective on January 1, 2019 ("Agreement"). This Second Amendment ("Amendment") to that Agreement is effective as of January 1, 2023 ("Effective Date of Second Amendment"). Capitalized terms used in this Amendment shall have the same meanings as are set forth in the Agreement, except as otherwise indicated herein.

**RECITALS**

- A. The parties desire to amend the Agreement in the manner set forth below.

NOW THEREFORE, for valuable consideration hereby acknowledged, the Agreement is hereby amended as follows:

1. Section 1.3 (Base Period) of Article 1 is revised and replaced with the following language:
  - 1.3 **Base Period** means the period of time beginning on the Effective Date and continuing through the thirty-six month period of time beginning on January 1, 2023.
2. Section 3.2 (Adjustments to Payment) of Article 3 is revised and replaced with the following language:
  - 3.2 **Adjustments to Payment.** Prior or subsequent to payment, Payor (or its designee) may review and/or audit any and all Claims and Invoices, Including Records related to such Claims and Invoices, to ensure charges are billed, and supported for payment by Payor, in accordance with this Agreement, the Provider Manual and related payment policies adopted by Payor and made available to Provider, and applicable Law. Except to the extent prohibited by Law, Payor reserves the right to deny, reduce or otherwise adjust payment to Provider on Claims (or any portion thereof) that Payor determines contain (i) coding errors or erroneous charges; (ii) charges and/or coding that are not payable in accordance with this Agreement, the Provider Manual, Payor's payment policies, CMS guidelines (Including guidelines on unbundling, routine items and multiple procedure reductions, which are applied for all Member Claims) or other commonly accepted standards of reimbursement and/or (iv) charges for services rendered that are not appropriate or medically necessary. If an audit conducted by a Payor shows that Contractor owes money to Payor for any reason hereunder, Including overpayments due to COB (as defined in Section 3.4), Payor will notify Contractor, and Contractor shall contest or refund such

overpayment to Payor within thirty (30) Business Days after the date that Payor notifies Contractor, unless a longer time period is required by applicable Law. To the maximum extent permitted by applicable Law, Payor is hereby authorized to offset and recoup any debt owed by Provider to Payor, including the amount of any overpayment identified in an uncontested notification of overpayment sent in accordance with applicable Law, whether or not such debt arises from payment for Services under this Agreement or otherwise, against any money owed to Contractor. If this Agreement expires or is terminated for any reason prior to Payor's full recovery of such overpayment, the remaining amount shall become due and owing immediately upon the effective date of the expiration or termination.

3. Section 4.2.2.10 of Article 4 is revised and replaced with the following language:

4.2.2.10 Contractor's, Subcontractor's, Practitioner's or Facility's (i) sanction under or debarment, suspension, preclusion or exclusion from, or opt out of any federal program, Including Medicare or Medicaid or (ii) identification in a federal list of excluded entities or individuals, including lists maintained by the General Services Administration, Office of Inspector General, Department of Health and Human Services, or Office of Foreign Assets Control; or

4. Section 6.4 (Access for and Disclosure to Government Officials) of Article 6 is revised and replaced with the following language:

6.4 **Access for and Disclosure to Government Officials.** Without limitation, Contractor shall and shall cause its Subcontractors to maintain, provide access to, and provide copies of Records, this Agreement and other information to Government Officials.

5. Section 7.1.2 (Medicare/Medicaid) of Article 7 is revised and replaced with the following language:

7.1.2 **Medicare/Medicaid.** Contractor represents and warrants that it is currently, and for the Term, shall remain (i) if eligible for enrollment, enrolled in, and if applicable, certified by, the Medicare and Medicaid/Medi-Cal programs; (ii) not identified on the CMS Preclusion List; and (iii) in compliance with all applicable Laws and CMS instructions necessary for participation in the Medicare and Medicaid/Medi-Cal programs. With respect to Covered Services provided to Medi-Cal Members and Medicare Advantage Members, Contractor shall comply with (i) Exhibit 3 (Billing Instructions and Compensation/Payment Rates), (ii) all applicable Laws governing the applicable Medi-Cal/Medicaid or Medicare programs, (iii) the obligations in the contracts between KFHP and CMS (and with respect to Medi-Cal, between KFHP and State agencies and their subcontractors) governing KP's participation in such programs, Including the requirements identified in Exhibit 6.2 (Federal Program Compliance) and Exhibit 6.3 (Medi-Cal Program Compliance). Any provision required to be in this Agreement by the Laws governing the Medi-Cal/Medicaid or Medicare programs shall bind the parties, whether or not provided in this Agreement. With respect to Services provided to Medi-Cal Members, Contractor shall comply with the applicable policies and procedures regarding identifying, referring and treating special Medi-Cal Member populations. With respect to Covered Services provided to FEHBP

Members, Contractor acknowledges the requirements identified in Exhibit 6.2 (Federal Program Compliance).

6. Section 8.2 (Procedure for Giving Notice) of Article 8 is revised and replaced with the following language:

- 8.2 **Procedure for Giving Notice.** All Notices provided under this Agreement shall be in writing, signed by an authorized signatory, and shall be deemed given if sent as follows: personally delivered or sent by fax (or email, if indicated below), provided the sender has received a confirmation of such fax, and if transmitted by email, has not received a delivery error notification; sent by USPS or a commercial service with confirmed delivery, or certified mail (return receipt requested) addressed as follows:

TO KP	TO CONTRACTOR
Medical Services Contracting P.O. Box 23380 Oakland, CA 94623-2338 Attn: Administrator  For Overnight Delivery: 1950 Franklin Street, 6th Floor Oakland, CA 94612-3947 PHONE: (510) 987-4017 FACSIMILE: (510) 987-4172 EMAIL: Not available	BHC Fremont Hospital, Inc., dba Fremont Hospital 39001 Sundale Drive Fremont, CA 94538 Attn: Patricia Williams, Chief Executive Officer PHONE: (510) 743-4883 FACSIMILE: (510) 743-4871

If Notice is sent by USPS, commercial service or facsimile, delivery is effective at the date and time shown on the confirmation or return receipt. If Notice is sent by email, delivery is effective at 9:00am Pacific Time the next Business Day, unless an automated message is received by KP (or its designated agent) indicating the email was not delivered. Any faxed Notice shall be followed by a copy sent by USPS or commercial service. Any party to the Agreement may change its address for Notice purposes by Notice to each other party.

7. Section 9.1 (Insurance) of Article 9 is revised and replaced with the following language:

- 9.1 **Insurance.** Contractor shall maintain or cause to be maintained the following coverage either through insurance, or through self-insurance programs that are deemed acceptable to KP, or in such other manner as may be set forth in Exhibit 1 (Additional Terms), covering itself and each Subcontractor through whom Contractor provides Services at the following levels: (i) a policy of commercial general liability and property damage insurance with limits of liability not less than one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) annual aggregate, (ii) a separate policy of professional liability insurance with limits of liability not less than one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) annual aggregate, or such other amount as set forth in Exhibit 1 (Additional Terms) and (iii) such other insurance or self insurance acceptable to KP as shall be necessary to insure Contractor against any claim or claims for damages arising under this Agreement, Including claims arising by reason of personal

- injury or death in connection with the performance of any Service, or use of any property or facility pursuant to this Agreement. Such insurance coverage shall apply to all Facilities of Contractor and to Services provided by Contractor and its Subcontractors to Members at any KP facility or other site.
8. Section 10.15 (Independent Contractor) of Article 10 is revised and replaced with the following language:
- 10.15 **Independent Contractor.** Contractor enters into this Agreement, and will remain throughout the term of this Agreement, as an independent contractor. Nothing in this Agreement is intended to create nor shall it be construed to create between KPCP and Contractor a relationship of principal, agent, employee, partnership, joint venture or association. Neither KPCP nor Contractor has authorization to enter into any contracts, assume any obligations or make any warranties or representations on behalf of the other. No individual through whom Contractor renders Services shall be entitled to or shall receive from KP compensation for employment, employee welfare and pension benefits, fringe benefits or employment, workers' compensation, life or disability insurance or any other benefits of employment, in connection with providing Services. Contractor represents and warrants on behalf of itself and its Facilities and Practitioners that each is solely obligated for the timely payment of wages, proper classification of its workers, workers' compensation insurance, employee benefits, any payroll-related taxes and any other employment-related liability for its workers.
9. Exhibits 3 (Billing Instructions and Compensation/Payment Rates) and Exhibit 3.2 are restated in the revised Exhibits 3 (Billing Instructions and Compensation/Payment Rates) and Exhibit 3.2 attached hereto, and shall replace the entirety of Exhibits 3 (Billing Instructions and Compensation/Payment Rates) and Exhibit 3.2, respectively.

Except as expressly modified herein, all other terms and conditions of the Agreement continue in full force and effect. This Amendment may be executed and delivered by original signature, facsimile, or other image capturing technology (including by electronic signature), and in one or more counterparts, each of which will be deemed to be an original copy of this Amendment and all of which, when taken together, will be deemed to constitute one and the same document.

*The remainder of this page is intentionally left blank.*

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their respective duly authorized representatives as of the dates set forth below.

KAISER FOUNDATION HOSPITALS

By: \_\_\_\_\_  
Carrie Owen Plietz  
President, Northern California  
Kaiser Foundation Health Plan & Hospitals

BHC FREMONT HOSPITAL, INC. DBA  
FREMONT HOSPITAL

E-Signed : 03/01/2023 11:24 AM PST



patricia.williams3@uhsinc.com  
Title: CEO  
IP: 34.139.170.26

Sertifi Electronic Signature  
DocID: 20230223120309361

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

Patricia Williams  
Chief Executive Officer

Acknowledged as to form and content

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

Alfonse L. Upshaw  
Senior Vice President  
Chief Financial Officer  
Northern California Region

**EXHIBIT 3**  
**BILLING INSTRUCTIONS AND COMPENSATION / PAYMENT RATES**

The rates set forth in this Exhibit 3 are all-inclusive and are applicable to all Services, Including supplies, provided by Contractor to Members in accordance with the specific provisions of the subexhibits to this Exhibit 3. The subexhibit(s) listed below and attached to this Exhibit 3 describe(s) billing instructions and compensation/ payment rates for Services provided under this Agreement.

If any Services could be classified under more than one subexhibit attached to this Exhibit 3, KPCP shall determine in its sole discretion which of the attached subexhibits shall govern the payment for those Services.

**EXHIBIT 3.2 BILLING INSTRUCTIONS AND COMPENSATION / PAYMENT RATES FOR  
FACILITY SERVICES**

**EXHIBIT 3.2**  
**BILLING INSTRUCTIONS AND COMPENSATION / PAYMENT RATES**  
**FOR FACILITY SERVICES**

In accordance with the provisions of Article 3 (Billing and Payment) and this Exhibit 3.2, Contractor shall be paid for Covered Services rendered to Members.

I. **General Provisions.** Subject to all provisions of this Agreement, Contractor shall be paid for Covered Services at the rates set forth below, reduced by applicable Member Cost Share. Contractor shall accept such amounts as payment in full for Covered Services, irrespective of the cost to Contractor of providing such Services Including supplies, or of Contractor's customary charges for such Services.

II. **Instructions Relating to Claims.**

(A) **Claim Submission.** Contractor shall submit all Claims for Services rendered to Medicare Advantage Members, Medi-Cal Members and Commercial Members via Electronic Data Interchange (EDI) or to the billing address indicated on the written Authorization or, for Emergency Services, as specified in the Provider Manual. Contractor shall submit all Claims for Services rendered to Medicare FFS Enrollees to CMS unless Contractor is directed to bill a Payor directly. Claims shall be submitted in accordance with this Agreement and the billing procedures set forth in the Provider Manual, as a condition for payment.

(B) **Compensation by Membership Classification.**

1. **Commercial Members.** Contractor shall be paid for Covered Services provided to Commercial Members the lesser of (i) allowed billed charges or (ii) the applicable rates set forth in Section II.C, below.
2. **Medicare Advantage Members.** Contractor shall be paid for Covered Services provided to Medicare Advantage Members the lesser of (i) allowed billed charges, or (ii) the applicable rate set forth in Section II.C, below. However, if the applicable payment rate in Section II.C is a Case Rate (as described below), Contractor shall be paid the lesser of (i) allowed billed charges or (ii) the Case Rate.
3. **Medi-Cal Members.** Contractor shall be paid for Covered Services provided to Medi-Cal Members the lesser of (i) allowed billed charges, or (ii) the applicable rate set forth in Section II.C, below. However, if the applicable payment rate in Section II.C is a Case Rate (as described below), Contractor shall be paid the lesser of (i) allowed billed charges or (ii) the Case Rate.

(C) **Rates.**

1. **Rates for Services.**


**KAISER PERMANENTE**  
 HEALTH CARE SERVICES AMENDMENT

Type(s) of Inpatient Service <sup>1,1</sup>	Code(s)	Rate(s) <sup>1,2</sup> Effective January 1, 2023	Rate(s) <sup>1,2</sup> Effective January 1, 2024	Rate(s) <sup>1,2</sup> Effective January 1, 2025
Inpatient Psychiatric Services - Adult	Any one of the following REV codes: 0114, 0124, 0134, 0144, 0154 <b>AND</b> Age 18+ years old	\$1,707.66 per day	\$1,767.43 per day	\$1,829.29 per day
Inpatient Psychiatric Services - Adolescent	Any one of the following REV codes: 0114, 0124, 0134, 0144, 0154 <b>AND</b> Age 12 to 17 years old	\$1,728.86 per day	\$1,789.37 per day	\$1,852.00 per day
Inpatient Psychiatric Services - Child	Any one of the following REV codes: 0114, 0124, 0134, 0144, 0154 <b>AND</b> Age 0 to 11 years old	\$1,750.06 per day	\$1,811.31 per day	\$1,874.71 per day
Inpatient Eating Disorders Services	Any one of the following REV codes: 0114, 0124, 0134, 0144, 0154, 0204 <b>AND</b> Any one of the following ICD-10 CM diagnosis codes in any position: F50.00-F50.9, R63.0, R63.4, R64	\$2,498.42 per day	\$2,585.86 per day	\$2,676.37 per day
Inpatient Geropsych Services	Rev code: 0204	\$1,869.84 per day	\$1,935.28 per day	\$2,003.02 per day
Rate for Services not otherwise described in Exhibit 3.2		65% of covered billed charges		

- 1.1 Services (Including emergent Services) that are provided to a Member within twenty-four (24) hours prior to an inpatient admission and are provided in connection with the condition for which the Member was admitted shall not be paid separately, but shall be deemed Included in the payment for Inpatient Services.
- 1.2 Per day rate(s) means payment due for Services provided for a twenty-four (24) hour period or portion thereof, ending at midnight, including the day of admission, but excluding the day of discharge or death.
2. **Case Rates.** The following "Case Rates" apply to all Services related to an individual treatment, or a course of treatment for a diagnosis or group of related diagnoses provided to a specific Member by Contractor. For inpatient and outpatient surgeries and other procedures to which Case Rates apply, the Case Rate shall apply to Services starting at admission or registration (as applicable), and ending at discharge or release (unless otherwise specified). Payment of the Case Rate Includes not only the Services described by any indicated code(s) and/or descriptions which trigger or otherwise describe the Case Rate, but all other Services delivered during the individual treatment or course of treatment. For description purposes only, Contractor shall indicate on the billing form all codes for Services rendered by Contractor and its Subcontractors.

Type(s) of Inpatient Service	Code(s)	Rate(s) Effective January 1, 2023	Rate(s) Effective January 1, 2024	Rate(s) Effective January 1, 2025
Crisis Stabilization, including Contractor's psychiatrists	REV code: 0900 WITH HCPCS code: S9485	\$1,866.66 per case	\$1,931.99 per case	\$1,999.61 per case
Crisis Stabilization, <u>not</u> including Contractor's psychiatrists	REV code: 0900 WITH HCPCS code: S9485-52	\$1,521.10 per case	\$1,574.34 per case	\$1,629.44 per case
Partial Hospitalization	Any one of the following REV codes: 0904, 0912, 0913, 0915	\$805.60 per visit	\$833.80 per visit	\$862.98 per visit
Rates for Services not otherwise described in Exhibit 3		65% of covered billed charges		

3. **Do Not Bill Events** Contractor shall not be compensated for Services directly related to any Do Not Bill Event (as defined below) occurring in connection with Covered Services provided to a

Member pursuant to this Agreement. Contractor shall waive Member Cost Share associated with, and hold Members harmless from, any liability for all Services directly related to any DNBE. Contractor shall report DNBEs and submit Claims for Services directly related to DNBEs as set forth in the Provider Manual. In accordance with the terms of this Agreement, a Payor is entitled to deny payment and seek recovery of overpayments with respect to Claims for Services directly related to any DNBE.

“Do Not Bill Event” or “DNBE” shall mean the following (as further described in the Provider Manual):

- a. At any Location (Including an acute care hospital), the following surgical errors and hospital acquired condition (HAC):
  1. Wrong Surgery or invasive procedure on patient;
  2. Surgery or invasive procedure on wrong patient;
  3. Surgery or invasive procedure on wrong body part; and
  4. If not present prior to provision of Services, removal (if medically indicated) of foreign object retained after surgery or other procedure.
- b. At any Location that is an acute care hospital, the following HACs if not present upon admission:
  1. Air embolism;
  2. Blood incompatibility;
  3. Pressure ulcer (stage three or four);
  4. Falls and trauma;
  5. Catheter associated urinary tract infection;
  6. Vascular catheter associated infection;
  7. Manifestation of poor glycemic control;
  8. Surgical site infection following coronary artery bypass graft;
  9. Surgical site infection following orthopedic procedures or bariatric surgery for obesity;
  10. Deep vein thrombosis or pulmonary embolism following orthopedic procedures, as applicable; and
  11. Any new Medicare fee-for-service HAC later added by CMS.

Services shall be deemed directly related to a DNBE if the Services constitute the DNBE, or are to treat the DNBE and are medically necessary.

(D) **Periodic Updates.** The parties acknowledge that any codes and ranges of codes set forth in this Exhibit 3.2 are updated periodically. Successor or replacement codes shall automatically be substituted for any codes and ranges of codes set forth herein so long as the Services described by the replacement codes remain substantially similar to those of the superseded codes.

### III. Instructions Relating to Invoices for Other Contracted Functions.

(A) **Invoice Submission.** Contractor shall submit all Invoices for Other Contracted Functions, as applicable, to KP. Invoices shall be submitted in accordance with this Agreement and the billing procedures set forth in the Provider Manual, as a condition for payment.

1. Contractor will submit the Invoices for Other Contracted Functions, as applicable, to KP at the designated department and address as may be communicated to Contractor from time to time.
2. Invoices shall be produced on letterhead or other pre-printed invoice with Contractor's name, address and tax identification number. The Invoice shall indicate the amount due and the pay-to address, if different than Contractor's address.
3. Contractor shall date and sign the Invoices.
4. Contractor shall not bill CMS or a CMS intermediary or other CMS Payor or agent for any Other Contracted Functions provided to Medicare Advantage Members.

### (B) Other Contracted Functions Rates.

Description of Service	Referenced in Exhibit(s)	Rate(s) <sup>1,2</sup> Effective January 1, 2023	Rate(s) <sup>1,2</sup> Effective January 1, 2024	Rate(s) <sup>1,2</sup> Effective January 1, 2025
Unavailable Bed Fee – Inpatient Psychiatric Adult	Exhibit 4.6	\$1,707.66 per bed per day	\$1,767.43 per bed per day	\$1,829.29 per bed per day
Reservation Fee – Inpatient Psychiatric Adult	Exhibit 4.6	\$1,707.66 per bed per day	\$1,767.43 per bed per day	\$1,829.29 per bed per day
Unavailable Bed Fee – Inpatient Psychiatric Adolescent	Exhibit 4.6	\$1,728.86 per bed per day	\$1,789.37 per bed per day	\$1,852.00 per bed per day
Reservation Fee – Inpatient Psychiatric Adolescent	Exhibit 4.6	\$1,728.86 per bed per day	\$1,789.37 per bed per day	\$1,852.00 per bed per day
Unavailable Bed Fee – Inpatient Psychiatric Child	Exhibit 4.6	\$1,750.06 per bed per day	\$1,811.31 per bed per day	\$1,874.71 per bed per day
Reservation Fee – Inpatient Psychiatric Child	Exhibit 4.6	\$1,750.06 per bed per day	\$1,811.31 per bed per day	\$1,874.71 per bed per day
Unavailable Bed Fee – Inpatient Eating Disorders	Exhibit 4.6	\$2,498.42 per bed per day	\$2,585.86 per bed per day	\$2,676.37 per bed per day
Reservation Fee – Inpatient Eating Disorders	Exhibit 4.6	\$2,498.42 per bed per day	\$2,585.86 per bed per day	\$2,676.37 per bed per day