

AGREEMENT For Medicaid Consultation and Billing

THIS AGREEMENT is entered into as of the Start Date specified below with a billing start date of June 1, 2023 by and among:

MSB School Services (MSB™), a limited liability company, having an address of 1615 Scottsdale Dr., Bldg 2, Ste. 200C, Leander, Texas 78641 and

Ector County ISD, (the “District”) having an address of 802 N. Sam Houston Odessa, Tx. 79761.

MSB™ is in the business of providing Medicaid Consultation and Billing for school districts as defined in Exhibit A; and MSB™ wishes to provide Medicaid Consultation and Billing to the District; and

the District desires to utilize Medicaid Consultation and Billing;

The parties agree, for good and valuable consideration, the receipt of which is hereby acknowledged, and intend to be bound by the terms of this agreement as set forth in this document.

Definitions

- A. “X Logs™” means “X Logs™” Clinical Notation Solutions necessary to access MSB™’s host server facilities.
- B. “Licensed System” means X Logs™, Clinical Notation Solution, and Support Services.
 1. Agreement Term. The Initial Agreement Term shall be from the date on which the last Party executes this Agreement (“Start Date”) and continue for three years from the Start. Upon completion of the Initial Agreement Term, this Agreement will automatically renew annually for each consecutive year until and unless terminated by either party upon a 30-day advanced written notice.
 2. Administration Fee. Based upon the Agreement Term, your administration fee for Medicaid Consultation and Billing is: 6%
 3. Services and Responsibilities. MSB™ hereby agrees to provide Medicaid Consultation and Billing as outlined in Exhibit A. The District agrees to perform District Responsibilities outlined in Exhibit B and to pay the rates set forth above to MSB™.
 4. Consideration. In exchange for MSB’s provision of Medicaid Consultation and Billing, the District shall pay MSB™ an Administration Fee. The Administration Fee will be calculated based on the agreed upon percentage of the amount actually received in Medicaid reimbursement during the agreement term, either direct deposit or checks delivered to the District, as defined in Paragraph 2. The Administration Fee is payable within 30 days of the District’s receipt of each invoice. During the Agreement term, the District shall pay an Administration Fee for all interim reimbursements received through the Medicaid to Schools Program. The District shall also pay an Administration Fee for amounts received on all Cost Settlements prepared during the Agreement Term and any additional reimbursement identified as a result of MSB’s efforts cost reports prepared by previous vendors. For the sake of clarity, the Administration Fee includes, but is not limited to, the following types of reimbursement:
 - Interim Reimbursements: All Interim reimbursements received during the Agreement Term.

- **Cost Settlements:** All amounts received because of Cost Settlements prepared during the Agreement Term regardless of if they are paid out after the end of the Agreement Term. Additionally, the District will pay the Administration Fee for any additional reimbursement MSB identifies through appeals for cost reports prepared by previous vendors.
- **Medicaid Administrative Claiming (MAC):** All reimbursements received through Medicaid Administrative Claiming (MAC) during the Agreement Term.

MSB™ reserves the right to renegotiate the administrative fee rate as found in Paragraph 2 should either the federal and/or state governments revise the protocols for submitting and/or paying Medicaid claims.

5. **Strict Compliance.** If a Party fails to exercise any right or to insist that the other Party strictly comply with any obligation, no such failure or insistence shall be a waiver of the right of a Party to demand strict compliance with each duty or obligation. No custom or practice of the Parties that varies from this Agreement shall constitute a waiver of the right of a Party to demand exact compliance. Waiver by one Party of any particular default by the other Party shall not affect or impair a Party's rights in connection with any subsequent default of the same or of a different nature, nor shall any delay or omission of a Party to exercise any rights arising from such default affect or impair the rights of that Party as to such default or any subsequent default.
6. **Jointly Drafted.** This Agreement shall be deemed to have been drafted by both Parties and, in the event of a dispute, shall not be construed against either party.
7. **Waiver of Equitable Remedies.** The Parties waive all equitable remedies including equitable rescission and rescission at law.
8. **Intellectual Property Rights/Confidentiality.** It is agreed that any and all work, data and information that is the product of this Licensed System shall belong wholly to the District. All information and school data submitted or input into the Licensed System remains the proprietary information for the District and may not be copied or used in any way without the express written permission of the District, with the exception that employees of MSB™ may access the Licensed System and data from the Licensed System for provision of Support Services, manipulation of data for appropriate purposes, and facilitation of data transfer to enable the District to meet its state and federal reporting requirements. At termination, the District may request, in writing, all District information stored in the X Logs® Clinical Notation Solution. MSB™ will, within 60 days, provide to the District all of its information in such a format that MSB™ deems appropriate. Notwithstanding the above, this Agreement does not transfer ownership rights of the Licensed System or intentionally create derivative works based on such intellectual property. The District agrees not to distribute the Licensed System to any person or entity other than District personnel or contracted District personnel, or make any other improper use of the Licensed System.
9. **Bankruptcy.** If, at any time, MSB™ seeks the protection of the U.S. Bankruptcy Act of 1978, as amended or any applicable state bankruptcy law and:
 - a. Has a receiver in equity appointed for its property requests or consents to the appointment of a receiver, or
 - b. Has a trustee in reorganization appointed for its property, or
 - c. Files a voluntary petition for reorganization or arrangement, or
 - d. Files a voluntary petition in bankruptcy, or
 - e. Files an answer admitting bankruptcy or agreeing to a reorganization or arrangement, or

- f. Makes an assignment for the benefit of its creditors, then this Agreement shall expire. Any payments due from the bankrupt Party to the other Party under this Agreement shall be deemed an administrative expense under 11 U.S.C. §503. This Paragraph shall not apply in the event of a withdrawal or discharge of any petition that occurs within 45 days of the date on which any such petition is filed.
10. **Further Assurances.** If requested by one Party, the other Party shall execute and deliver such other documents and take such other action as may be necessary to effect the terms of this Agreement.
11. **Authority to Execute.** Each of the undersigned individuals represents and warrants that he or she is expressly and duly authorized by his or her respective entity or agency to execute this Agreement and to legally bind each such entity or agency as set forth in this Agreement.
12. **Termination.** Either party may terminate this Agreement during the Initial Agreement Term after providing the other Party written notice specifying the other Party's failure(s) to perform its obligations under this agreement to the satisfaction of the terminating Party and allowing a 60-days' opportunity to cure any such failures or deficiencies. If upon the expiration of 60 days, any such failures or deficiencies have not been cured to the satisfaction of the terminating party, the Agreement shall terminate. The parties also agree that MSB™ may terminate this agreement if the District fails to provide timely payment as set forth in this agreement. Any rights each party may have to receive revenues from Medicaid reimbursements, including the Administration Fee specified in Paragraph 2, shall survive termination of this Agreement only to the extent that such revenues were completely earned for claims billed and/or consulting services provided by MSB prior to the effective date of termination of this Agreement. Thus, if the district terminates this agreement upon notice, MSB shall be entitled to payment for all interim claims successfully transmitted by MSB to TMHP up to the effective date of termination and as payment is received by ECISD. Additionally, MSB will be paid out all amounts received because of Cost Settlements prepared during the Agreement Term regardless of if they are paid out after the end of the Agreement Term.
13. **Costs.** In the event that litigation is commenced to enforce any of the terms of this Agreement, each party shall bear its own costs, including reasonable attorney's fees.
14. **Exclusions.** MSB™ in no way implies nor should any language herein be construed that MSB™ guarantees that the utilization of Medicaid Consultation and Billing by the District will guarantee the District's compliance with State or Federal requirements relative to Medicaid reimbursements. No utilization of Medicaid Consultation and Billing by the District will constitute the formation of an attorney-client relationship between MSB™ and the District.
15. **Notices.** Except as otherwise expressly set forth in this Agreement, all notices, demands and other communications to be given or delivered under or by reason of the provisions of this Agreement will be in writing and will be deemed to have been given when delivered personally, or by documented overnight delivery service, or sent by telecopy, telefax, or other electronic transmission service, provided a confirmation copy is also sent no later than the next business day by first class certified mail, return receipt requested to the party at the address set forth at the head of the Agreement, or such other address as specified in writing by such party.
16. **Force Majeure.** The parties agree that MSB™ will not be held responsible for non-performance under the terms of this contract stemming from events reasonably outside of the control of MSB™, such as, but not limited to, fires, floods, war, terrorist attack, regulatory action, utility interruption, viruses and the like.

17. **FERPA.** To the extent District grants MSB access to Personally Identifying Information (PII) or other protected FERPA data, or MSB has access to or stores or holds any such District PII or FERPA protected data, MSB agrees to: (i) access and use such data solely for the purpose of to provide professional services to District pursuant to the agreement between MSB and the District in accordance with the terms and conditions of said agreement and any applicable Statement(s) of Work; (ii) maintain physical, technical, and administrative safeguards to protect said data against unauthorized access, use, or disclosure while it is accessible to or held by MSB; and (iii) not disclose said data to any third party, except: (x) to its employees, consultants or contractors who need to have access to such information and solely for purposes of providing professional services to the District, provided that such recipients are bound by confidentiality provisions no less restrictive than those set out in this contract; and (y) to the extent required by a judicial order or other legal obligation, provided that, to the fullest extent permitted by law, MSB will promptly notify District of such a required disclosure to allow intervention by District (and will cooperate with Customer) to contest or minimize the scope of the disclosure. Nothing in this contract shall require MSB to take measures in excess of those commonly accepted in the industry as commercially reasonable.
18. **General.** This Agreement: (i) may be executed in any number of counterparts, each of which, when executed by all parties to this Agreement shall be deemed to be an original, and all of which counterparts together shall constitute one and the same instrument, (ii) shall be governed by and construed under the laws of Texas applicable to contracts made, accepted, and performed wholly within Texas, without application of principles of conflicts of laws; (iii) constitutes the entire agreement of the parties with respect to its subject matter, superseding all prior oral and written communications, proposals, negotiations, representations, understandings, courses of dealing, agreement, contracts, and the like between the parties in such respect; (iv) may be amended or modified only by a writing signed by the parties and any right under this Agreement may be waived in whole or in part, only by a writing signed by the parties; (v) contains headings only for convenience, which headings do not form part, and shall not be used in construction, of this letter agreement; (vi) No assignment of this Agreement or of any duty or obligation of performance thereunder, shall be made in whole or in part by MSB without the prior written consent of ECISD. (vii) shall bind and inure to the benefit of the parties and their respective legal representatives, successors and permitted assigns; (viii) is not intended to inure to the benefit of any third-party beneficiaries; (ix) may be enforced only in courts located within the State of Texas, and the parties hereby agree that such courts shall have venue and exclusive subject matter and personal jurisdiction, and consent to service of process by registered mail, return receipt requested, or by any other manner provided by law; (x) invalidity of any one or more of the provisions of this Agreement shall in no way affect any of the other provisions hereof which shall remain in full force and effect; and (xi) in the event litigation cases are settled prior to adjudication, the parties are responsible for their own attorney's fees.
19. **Access to District Stakeholders.** The District Acknowledges and covenants that MSB shall have quarterly access to District's direct program stakeholders for consultation, training and question and answer sessions. These meetings may take place in person or online at MSB's discretion, but in-person meetings shall take place at the District. The District acknowledges that regular and direct access with District program stakeholders is critical as best practices and regulations change and the District's awareness of these changes and best practices are critical to a successful program and partnership.

EXHIBIT A
Summary of Medicaid Consultation and Billing

As the consulting and billing agent, MSB™ agrees to adhere to all rules and regulations that pertain to the submission of claims under the Rules and Regulations that govern School-Based Medicaid reimbursement programs.

MSB™ is pleased to provide the following services to your school district:

- Unlimited access to your assigned local Program Specialist who will provide a single point of contact to manage your entire Medicaid to schools program
- Complete enrollment management for National Provider Identifier
- Complete enrollment management for Texas Provider Identifier
- Complete management of Fairbanks (STAIRS) account
- Complete management of Medicaid Administrative Claiming (MAC) enrollment
- Maintain annual state training certifications for Cost Reporting, Random Moment Time Study (RMTS) Participant List and MAC
- Complete management of quarterly RMTS Participant List certification, including staff training and response management
- Complete management of MAC financial certification
- Complete management of Provider credentials to ensure they are current per SHARS billing guidelines
- Complete management of Professional Oversight of applicable Providers (COTA, PTA, SLPA, Grandfathered SLP, Delegated Nursing Services) per SHARS billing guidelines
- Unlimited onsite and online training for administrators and service providers to ensure the success of the SHARS program in the District
- Daily monitoring of Provider participation in the SHARS program (Clinical documentation)
- Complete management of Specialized Transportation sessions and claiming
- Accurate, dependable, and confidential billing process: Processing of all Medicaid claims using both paper logs and/or the electronic files generated by the school districts' health care practitioners and other qualified staff via X Logs™ service documentation
- Audit Provider clinical notation for SHARS compliance and deny or hold any sessions missing needed information
- Tracking and Reconciliation of all submitted claims from Texas Medicaid & Healthcare Partnership (TMHP), including the resubmission of rejected claims and the appeal of denied claims
- Reports which show the status of all Medicaid transactions, reimbursements and cataloguing of electronic service delivery records
- Special reports as requested by the school districts
- Complete management of the Certification of Funds process
- Storage of all Remittance and Status reports from TMHP
- Complete analysis, audit and appeal/corrections of the previous two years' Cost Reports as allowed by the State

- Complete management of the annual Cost Reporting Process
- Complete management of the salary allocation for SSAs and Co-ops
- State and federal Medicaid information, liaisons, and updates: Timely and accurate information regarding the rules and regulations associated with Medicaid reimbursement to schools
- Advise school districts in contract negotiations with non-employees regarding contract sections related to payment terms and proper documentation for billing purposes
- Assistance in audit preparation and facilitation to assist with proper procedure and rigorous compliance, Interface with State Medicaid Agencies and State Education Agencies as appropriate as a result of audit findings.
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- Review filed cost report(s) compared to what was desk reviewed and submitted to the state to ensure the amounts agree with what was filed. Additional review of subsequent cost reports to ensure the settlement trend is consistent across years. If an appeal opportunity is identified, MSB advises the district of the appeal and prepares the documentation to submit to the state. If no appeal is needed, MSB supports the district in next steps to waive the appeal and receive funds.
- MSB takes on the audit process to defend methodologies, and information that was reported. Cost reports are subject to audit for up to 7 years beyond the state submission date.
- MSB does not invoice the district while a recoupment originating from an audit is on the district's account with the state, as the district is receiving no payments.
- Administrative, consulting, statistical and audit services to the District
- Complete management of the audit process, including audit preparation and facilitation to assist with proper procedure and rigorous compliance, Interface with State Medicaid Agencies and State Education Agencies as appropriate as a result of audit findings.
- X Logs™ Licensed System
- School data hosted on a secure server
- X Logs™ web-based software usage
- Unlimited technical support – 5 days a week via toll free number, Live Chat, and/or email
- Supporting documentation (Online User Guides, Video Tutorials)
- X Logs™ software updates

EXHIBIT B
District Responsibilities

As the Provider of Record, the school district agrees to provide information to MSB™ that adheres to all Rules and Regulations that govern school-based Medicaid programs. Below is a list of responsibilities that the District agrees to fulfill:

The District is responsible for the following:

- Maintain X Logs™ forms and fields related to certifications, licensures, etc. of all staff for whose services the District is seeking reimbursement
- Maintain individual education programs (IEP)s within the school-based Medicaid program guidelines for all services for which the District is seeking reimbursement
- Maintain necessary paperwork related to all Medicaid required referrals, orders or recommendations for services for which the District is seeking reimbursement
- Maintain attendance records
- Maintain actual cost data for covered services