

Memorandum of Understanding

Flathead Community Health Center & Bigfork Public Schools

Flathead Community Health Center (FCHC), a public entity and Federally Qualified Health Center, and Bigfork Public Schools (BPS), a public school system serving Bigfork, MT and surrounding catchment area, agree as follows:

1. Services

1.1. Behavioral Health Services. Subject to the terms and conditions of this agreement, FCHC will provide outpatient psychotherapeutic behavior services (“**Behavioral Health Services**”) at approved service sites outlined in Addendum A.

1.2. Qualifications. FCHC and its employees and contractors providing Behavioral Health Services: (1) maintain all licenses lawfully required to provide the services; (2) not be convicted, reprimanded, debarred or otherwise sanctioned for fraud under any state or federal tax laws, or under any state or federal health care reimbursement program, including, but not limited to, Medicare and Medicaid; (3) maintain eligibility to participate in Medicare and Medicaid; (4) not be suspended from participation in any third party payor programs in which FCHC participates; (5) not be expelled, suspended, or disciplined with regard to professional practice by final action of any professional organization; (6) comply with all laws that govern providing Behavioral Health Services and Coordination Services.

1.3. Credentialing and Privileging. FCHC ensures that its providers are: (1) licensed, certified, or registered as verified through a credentialing process, in accordance with applicable Federal, state, and local laws; (2) Competent and fit to perform the contracted or referred services, as assessed through a privileging process including verification of fitness for duty, peer review, supervisory performance reviews or other comparable methods.

1.4. Sliding Fee Discount Program. The sliding fee discount program (SFDP) will be offered to all patients. Patients with incomes at or below 100 percent of the current FPG (Federal Poverty Guideline) will have a nominal charge and patients above 100 percent of FPG and at or below 200 percent of FPG will receive partial discounts on services. Patient eligibility for the SFDP will be re-assessed according to FCHC’s policies and procedures. Patients will be notified of the SFDP in the registration process and with signage.

1.5. Patient Eligibility. Services are equally available to patients, regardless of their ability to pay.

2. Facility Requirements

2.1. Office for Behavioral Health Services. BPS will provide to FCHC at each approved service site the right to use a private office Behavioral Health Services and the right to use in common with BPS entryways, restrooms, and waiting rooms as needed by FCHC to provide Behavioral Health Services. FCHC will provide at its expense and may use in the office any equipment and supplies it determines are needed to provide Behavioral Health Services. This use right granted by BPS to FCHC is a license only and FCHC will not claim at any time any interest or estate of any kind or extent whatsoever in the property by virtue of this license or FCHC’s use of the property under this agreement. A termination of this agreement or BPS’s interest in the property will immediately and automatically terminate this license.

2.2. Signage. BPS will abide by signage requirements at each service site as outlined in Attachment A.

3. Term and Termination

3.1. Term. The term of this agreement is January 1, 2020 through December 31, 2021 (“**Term**”), unless sooner terminated under Section 3.2.

3.2. Termination. This agreement may be terminated before the end of the Term:

- I. By either party if the other party breaches a material term of this agreement and fails to cure the breach within thirty days after receipt of written notice specifying the breach.
- II. By either party if the other party is convicted, reprimanded, debarred or otherwise sanctioned for fraud under any state or federal tax laws, or under any state or federal health care reimbursement program including Medicare and Medicaid.
- III. By either party if the other party files bankruptcy or dissolves.
- IV. By either party if continuation of this agreement would reasonably constitute a threat to the well-being of any person.
- V. By either party for any reason or no reason by giving 90 days’ written notice of termination to the other party.

4. Compensation

4.1. Right to Bill. FCHC will have the sole and exclusive right to bill and collect for Behavioral Health Services and Coordination Services as provided under this agreement. BPS hereby designates FCHC as its true and lawful agent and reassigns its right to FCHC to bill and collect monies due for all services provided hereunder. BPS acknowledges that FCHC shall determine the amount of fees charged to patients and payors and the use of such funds in its sole and reasonable discretion.

5. Representations and Warranties. The parties represent and warrant the following, as applicable:

- 5.1.** No obligation of or performance by any party to this agreement will be conditioned on the volume or value of Federal health care program business generated between them.
- 5.2.** FCHC reasonably expects this agreement to contribute meaningfully to its ability to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by FCHC, and FCHC has documented the basis for the reasonable expectation prior to entering this agreement.
- 5.3.** Neither party to this agreement is required or restricted in any way from referring patients to any other individual or entity.
- 5.4.** This agreement does not restrict FCHC’s ability, if it chooses, to enter into agreements with other providers or suppliers for comparable goods, items, or services.

5.5. This agreement does not restrict BPS's ability, if it chooses, to enter into agreements with other providers or suppliers for comparable goods, items, or services.

6. Records

6.1. Confidentiality of Records. FCHC will comply with all laws governing the use and disclosure of individually identifiable health information.

7. Relationship; Insurance; Indemnity

7.1. Independent Contractors. Nothing in this agreement may be construed to create a joint venture or partnership between FCHC and BPS.

7.2. Insurance. Each party will at its sole expense obtain and keep in force a policy or policies of professional liability insurance, general liability insurance, and workers compensation insurance covering it and its employees and agents while providing services under this agreement with limits of coverage that are reasonable and customary for the types of activities and services provided by the party. Each party must notify the other in writing if the party's insurance is or will be cancelled or materially changed.

7.3. Indemnification.

A. FCHC Indemnity. FCHC agrees to defend, indemnify and hold BPS harmless from and against all liability, loss or damage from claims, demands, and causes of action of every kind and character arising from any act by, or negligence of FCHC or its subcontractors, officers, agents, employees, and contractors while engaged in the performance of this agreement, unless such claim, demand, or cause of action is a direct result of the gross negligence or willful misconduct of BPS or its subcontractors, officers, agents or employees while engaged in the performance of this agreement.

B. BPS Indemnity. BPS agrees to defend, indemnify and hold FCHC harmless from and against all liability, loss or damage from claims, demands, and causes of action of every kind and character arising from any act by, or negligence of BPS or its subcontractors, officers, agents, employees, and contractors while engaged in the performance of this agreement, unless such claim, demand, or cause of action is a direct result of the gross negligence or willful misconduct of FCHC or its subcontractors, officers, agents or employees while engaged in the performance of this agreement.

8. General Provisions

8.1. Entire Agreement. This agreement constitutes the entire agreement between the parties concerning the subject matter of this agreement and supersedes all other oral or written agreements on this subject matter.

8.2. Counting Days. If the day for performance of any obligation under this agreement is a Saturday, Sunday, or legal holiday, then the time for performance of any obligation under this agreement will be extended to 5:00 p.m. on the 1st day following the Saturday, Sunday, or legal holiday.

8.3. Modifications. This agreement may be modified or amended only by a writing signed by both parties.

8.4. Severability. In the event any provision of this agreement is determined to be invalid or unenforceable, the remaining provisions will nevertheless remain in full force and effect and will be binding upon the parties.

8.5. Non-Assignment. This agreement may not be assigned by either party without the express written consent of the other party.

8.6. Notices. All notices hereunder by either party to the other must be in writing. All notices demands and requests will be deemed given when mailed, postage prepaid, registered or certified mail, return receipt requested as outlined below or to such other address or to such other person as may be designated by written notice given from time to time during the term of this Agreement by one party to the other:

To FCHC: Flathead Community Health Center
 Attention: Executive Director
 1035 First Ave West
 Kalispell, MT 59901

To BPS: BigforkPublic Schools
 Attention:

 Bigfork, MT 59901

8.7. Waiver. No waiver of satisfaction of a condition or nonperformance of an obligation under this agreement will be effective unless it is in writing and signed by the party granting the waiver, and no waiver will constitute a waiver of satisfaction of any other condition or nonperformance of any other obligation.

8.8. No Third-Party Rights. The parties do not intend the benefits of this agreement to inure to any third person not a party to this agreement.

8.9. General Interpretation; Ambiguities. Ambiguities, if any, in this agreement will be reasonably construed in accordance with all relevant circumstances including prevailing practices in the industry of the parties in the place where the contract is to be performed and may not be construed against either party, irrespective of which party may be deemed to have authored the ambiguous provision.

8.10. Survival. Section 6.1 will survive the expiration or termination of this agreement.

8.11. Reformation. If any state or federal law or regulation now existing, or enacted or promulgated after the date of this agreement is interpreted by judicial decision or regulatory agency or by legal counsel for either party in such way as to indicate that this agreement or any portion hereof, including any compensation provisions now or hereafter in effect between the parties, may be in violation of such law or regulation, or in either party's sole judgment, after consultation with counsel, may be subject to undue risk of legal challenge or exposure to legal liability (whether civil or criminal), then the parties will meet and confer after one party notifies the other in writing of the violation (or possibility thereof) in an attempt in good faith to reform this agreement so as to comply with the laws and regulations. If on or before the 30th day following one party giving notice to the other of an issue or issues under this paragraph FCHC and BPS do not agree on reformation or other resolution of all the issues, then either may

terminate this agreement any time after that 30th day without penalty.

8.12. Counterparts. "Counterparts" means and includes photocopies of the signed agreement and copies of the signed agreement delivered by facsimile transmission or email. This agreement may be executed in any number of Counterparts, each of which will be deemed an original, but all Counterparts together will constitute the same instrument.

8.13. Compliance. FCHC will oversee to ensure that the services provided are in accordance of the terms, conditions and specifications of the agreement and applicable federal laws.

8.14. Governing Law. This agreement will be governed and construed in accordance with the laws of the State of Montana and any litigation arising out of the performance of this agreement shall be filed in Flathead County District Court.

8.15. Effective Date. This agreement will become effective when all the parties have signed it. The date this agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature) will be the date of this agreement.

Each party is signing this agreement on the date stated opposite that party's signature.

Matt Jensen, Superintendent Bigfork Public Schools

Date signed

Mary Sterhan, FCHC Executive Director

Date signed

James Driscoll, FCHC Board Chairman

Date signed

Addendum A

| SCHOOL | Behavioral Health | Primary Care |
|--|--|--------------------|
| Bigfork Middle School Bigfork, MT 59911 | .25 FTE licensed behavioral health provider | None at this time. |
| Bigfork Middle School Bigfork, MT 59911 | 0.25 FTE licensed behavioral health provider | None at this time. |

Attachment A

Exterior Signage Requirements. Flathead Community Health Center specific signage will be posted on the exterior of the building in a location in a conspicuous location to be agreed upon by both parties. Information to be included in the signage will be:

- Hours of operation
- Telephone number for the Flathead Community Health Center
- After-hours telephone number to reach the provider on-call
- FCHC Logo

Interior Signage Requirements. Flathead Community Health Center specific signage will be posted on the interior of the building in a location where direct services are provided to be agreed upon by both parties. Information to be included in the signage will be:

- Patient rights and responsibilities
- Promotion of the sliding fee schedule
- FCHC Logo