



# KERN HEALTH SYSTEMS

## SPECIAL BOARD OF DIRECTORS MEETING

Wednesday, February 24, 2010  
8:30 to 9:00 a.m.  
9700 Stockdale Highway, 1<sup>st</sup> Floor Board Room  
Bakersfield, CA 93311

### **Teleconference Information**

Call (877) 588-2786  
Conference Code:6616641520

### **Teleconference Sites**

Brian Komoto  
1017 Ellington Street  
Delano, CA 93215  
(661) 725-9489

Alan Burgess  
115 W. E Street  
Tehachapi, CA 93561  
(661) 823-3006

Bernita Jenkins  
1001 – 17<sup>th</sup> Street  
Bakersfield, CA 93301  
(661) 321-4174

Kyle Terry, M.D.  
1303 Jefferson Street  
Delano, CA 93215  
(661) 720-9111

Margaret Martin, R.N.  
250 West Ridgecrest Blvd.  
Ridgecrest, CA 93555  
(760) 375-5157

Philipp Melendez, M.D.  
3543 San Dimas Street  
Bakersfield, CA 93301  
(661) 325-7103

Paul Hensler  
1700 Mt. Vernon Avenue  
Bakersfield, CA 93306  
(661) 326-2102

Mark Wasser, Esq.  
400 Capitol Mall, Ste. 2640  
Sacramento, CA 95814  
(916) 444-6400

All votes in a teleconferenced meeting shall be by roll call.

### I. **ACTION ITEMS**

- A. Discussion and possible action regarding Amendment #12 to Hospital and Other Facilities Services Agreement between KHS and Kern Medical Center to allow payment of supplemental payments through inter-governmental transfer received by KHS to Kern Medical Center (Attachment)

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*PLEASE NOTE: Anyone wishing information on the Kern Health Systems Board of Directors or Committee Agendas should contact Kern Health Systems' Administration Department by telephone at (661) 664-5000 or in writing at the following address:*

*Kern Health Systems  
Administration Department  
9700 Stockdale Highway  
Bakersfield, CA 93311*

*Such requests must be received no later than 5:00 p.m. ten (10) business days prior to the next regularly scheduled Board Meeting or Committee meeting.*

**AMENDMENT NO. 12  
TO  
HOSPITAL AND OTHER FACILITY SERVICES AGREEMENT**

This Amendment No. 12 (hereinafter "Amendment") to the Hospital and Other Facility Services Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2010, by and between the County of Kern, a political subdivision of the state of California (hereinafter "County"), which owns and operates Kern Medical Center (hereinafter "Facility"), and Kern Health Systems, a county health authority (hereinafter "KHS").

**Recitals**

WHEREAS, County and KHS have heretofore entered into a Hospital and Other Facility Services Agreement (Kern County Agt. #011-2001) (hereinafter "Agreement") on January 9, 2001, Amendment No. 1 (Kern County Agt. #798-2001, dated August 14, 2001), Amendment No. 2 (Kern County Agt. #056-2002, dated January 15, 2002), Amendment No. 3 (Kern County Agt. #015-2003, dated January 7, 2003), Amendment No. 4 (Kern County Agt. #1011-2003, dated December 3, 2003), Amendment No. 5 (Kern County Agt. #087-2004, dated February 10, 2004), Amendment No. 6 (Kern County Agt. #1006-2004, dated November 8, 2004), Amendment No. 7 (Kern County Agt. #097-2005, dated February 14, 2005), Amendment No. 8 (Kern County Agt. #651-2005, dated July 26, 2005), Amendment No. 9 (Kern County Agt. #115-2006, dated February 13, 2006), Amendment No. 10 (Kern County Agt. #992-2007, dated November 6, 2007) and Amendment No. 11 (Kern County Agt. #726-2008, dated August 19, 2009), for the provision of health care services to Members of KHS; and

WHEREAS, section 10.02 of the Agreement provides that it may be amended; and

WHEREAS, KHS is a county health authority formed pursuant to Welfare and Institutions Code section 14087.38 and Chapter 2.94 of the Ordinance Code of Kern County; and

WHEREAS, Facility is a general acute care hospital licensed by the state of California pursuant to Division 2, Chapter 2, Article 2 of the Health and Safety Code; and

WHEREAS, KHS is a party to a Medi-Cal managed care contract with the California Department of Health Care Services (hereinafter "DHCS"), entered pursuant to Welfare and Institutions Code section 14087.3, under which KHS arranges and pays for the provision of covered health care services to eligible Members in County; and

WHEREAS, Facility and KHS desire to amend the Agreement to provide for supplemental payments to KHS as a result of intergovernmental transfers from County to DHCS, to maintain the availability of safety net health care services; and

WHEREAS, the Agreement is amended effective October 1, 2008;

NOW, THEREFORE, it is hereby agreed as follows:

1. Article X, section 10.12, shall be made part of the Agreement as follows:

“10.12 **Supplemental Payments to KHS.**

(a) **Payment.** Should KHS receive any Medi-Cal managed care capitation rate increases from DHCS where the nonfederal share is funded by the County of Kern specifically pursuant to the provisions of the Intergovernmental Agreement Regarding Transfer of Public Funds (“Intergovernmental Agreement”) effective for the period October 1, 2008 through September 30, 2009 (*i.e.*, Special Medi-Cal Managed Care Rate Increases) (“SMCRI”), KHS shall pay to Facility the full amount of the SMCRI received from DHCS, in accordance with paragraph (d) below (*i.e.*, Local Medi-Cal Managed Care Supplemental Payments) (“LMSP”). LMSP paid to Facility shall not replace or supplant any other amounts paid or payable to Facility by KHS.

(b) **Schedule and Notice of Transfer of County Funds.**

1. County shall provide KHS with a copy of the schedule regarding the transfer of County funds to DHCS, referred to in the Intergovernmental Agreement, within fifteen (15) days of establishing such schedule with DHCS. Additionally, County shall notify KHS, in writing, no less than seven (7) calendar days prior to any changes to an existing schedule including, but not limited to, changes in the amounts specified therein.

2. County shall provide KHS with written notice of the amount and date of the transfer within seven (7) calendar days after transferring County funds to DHCS for use as the nonfederal share of any SMCRI.

(c) **Conditions for Receiving Supplemental Payments.** As a condition for receiving LMSP, Facility shall, as of the date the particular supplemental payment is due:

1. Remain a participating hospital in the KHS health plan;
2. Maintain its current emergency department licensure status; and
3. Maintain its current inpatient surgery suites.

(d) **Form and Timing of Payments.** KHS agrees to pay LMSP to Facility in the following form and according to the following schedule:

1. KHS agrees to pay to Facility LMSP using the same mechanism through which compensation and payments are normally paid to Facility.
2. KHS will pay to Facility the LMSP no later than seven (7) calendar days after receipt of the SMCRI from DHCS.

(e) **Consideration.**

1. As consideration for the LMSP, Facility shall use the LMSP for the following purposes and shall treat the LMSP in the following manner:

(A) The LMSP shall represent compensation for services rendered to KHS Medi-Cal Members, for Medi-Cal services, by Facility during the state fiscal year to which the LMSP applies.

(B) To the extent that total payments received by Facility in any state fiscal year under this Amendment exceed the cost of services provided to KHS Medi-Cal Members, for Medi-Cal services, by Facility during that fiscal year, any remaining LMSP amounts shall be retained by Facility to be expended for health care services. Facility may use retained LMSP amounts in either the state fiscal year received or subsequent state fiscal years.

2. For purposes of subsection 1 (B) above, if the LMSP are not used by Facility in the state fiscal year received, retention of funds by Facility will be established by demonstrating that the retained earnings account of Facility at the end of any state fiscal year in which it received payments based on LMSP funded pursuant to the Intergovernmental Agreement, has increased over the unspent portion of the prior state fiscal year's balance by the amount of LMSP received, but not used. These retained Facility funds may be commingled with other County funds for cash management purposes; provided that such funds are appropriately tracked and only the depositing facility is authorized to expend them.

(f) KHS' Oversight Responsibilities. KHS' oversight responsibilities regarding Facility's use of the LMSP shall be limited as described in this paragraph. KHS shall request, within thirty (30) calendar days after each state fiscal year in which LMSP were transferred to Facility, a written confirmation that states whether and how Facility complied with the provisions set forth in paragraph (e) above. In each instance, Facility shall provide KHS with written confirmation of compliance within thirty (30) calendar days of KHS' request.

(g) Cooperation among Parties. Should disputes or disagreements arise regarding the ultimate computation or appropriateness of any aspect of the LMSP, Facility and KHS agree to work together in all respects to support and preserve the LMSP to the full extent possible on behalf of the safety net in Kern County.

(h) Reconciliation. Within one hundred and twenty (120) calendar days after the end of each of KHS' fiscal years in which LMSP were made to Facility, KHS shall perform a reconciliation of the LMSP transmitted to Facility during the preceding year to ensure that the supporting amount of SMCRI were received by KHS from DHCS. Facility agrees to return to KHS any overpayment of LMSP made to Facility within thirty (30) calendar days after receipt from KHS of a written notice of the overpayment, unless Facility submits a written objection to KHS. Any such objection shall be resolved in accordance with the dispute resolution processes set forth in section 10.04 of the Agreement. KHS agrees to transmit to Facility any underpayment of LMSP within thirty (30) calendar days of KHS' identification of such underpayment.

(i) Indemnification. Both parties agree to indemnify and hold harmless the other party and their officers, agents and employees from any and all claims, demands, judgments, damages, costs, liabilities or losses arising from, or in any way relating to, any losses or delays in capitation payments as a result of intergovernmental transfers from County to DHCS for the provision of supplemental payments to KHS.”

2. The term of this Amendment shall commence on October 1, 2008, and shall terminate on December 31, 2010.

3. All other terms and provisions of the Agreement shall remain in full force and effect so that all rights, duties and obligations, and liabilities of the parties hereto otherwise remain unchanged; provided, however, if there is any conflict between the terms of this Amendment and the Agreement, then the terms of this Amendment shall govern.

**[Signatures follow on next page]**

By their signatures below, the signatories represent and warrant that they are authorized to enter into this Amendment on behalf of the parties.

IN WITNESS TO THE FOREGOING, the parties have executed this Amendment No. 12 as of the day and year first written above.

COUNTY OF KERN

KERN HEALTH SYSTEMS

By: \_\_\_\_\_  
Paul J. Hensler  
Chief Executive Officer  
Kern Medical Center

By: \_\_\_\_\_  
Carol L. Sorrell  
Chief Executive Officer  
Kern Health Systems

APPROVED AS TO FORM:  
OFFICE OF COUNTY COUNSEL

By: \_\_\_\_\_  
Chief Deputy

Amend12.KernHealthSystems.Facility.Final.021810