

**ARKANSAS DEPARTMENT OF HUMAN SERVICES**  
**PERFORMANCE BASED CONTRACTING**  
**710-26-033**  
**Physical Therapy Services-SEAHDC**

Contractor **shall** comply with the following performance-based standards which will be part of the Contract.

- I. Contractor's failure to comply with Contract obligations, any applicable State and federal laws, regulations, and policies in performance of the Contract services **shall** be deemed insufficient and unacceptable performance.
- II. During the term of the contract, the State will complete sufficient performance evaluation(s) to determine if the Contractor's performance is acceptable. The State's determination of "Acceptable Performance" as defined herein shall be final and controlling. In the event a Performance Standard is not met, the Contractor will have the opportunity to defend, respond to, or cure the insufficiency to the satisfaction of the State.
- III. Failure to meet the minimum Performance Standards as specified may result in the assessment of damages as set forth below. At the State's sole discretion, the State may waive damages if it determines there were extenuating factors beyond the Contractor's control that hindered the performance of services if it is in the best interest of the State. Contractor **shall** follow the State's instruction regarding payment of any compensation due to the State for the assessment of damages. The damages are not exclusive and shall in no way exclude or limit any remedies available at law or in equity.
- IV. The State **shall** have the right to modify, add, or delete Performance Standards throughout the term of the contract, should the State determine it is in its best interest to do so. Any changes or additions to performance standards will be made in good faith following acceptable industry standards and may include Contractor input so as to establish standards that are reasonably achievable.
- V. The contract program deliverables and performance indicators to be performed by the Contractor are:

Service Criteria <sup>i</sup>	Acceptable Performance	Damages for Insufficient Performance <sup>ii</sup>
<u>Applicable for All Below Service Criteria</u>		
<p>1. Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p> <p>2. Penalties will be calculated from the total payment for the month in which the deficiency took place and assessed in a future months' payment to the Contractor.</p> <p>3. Upon DHS request, a Corrective Action Plan (CAP) acceptable to DHS <b>shall</b> be due to DHS within ten (10) business days of the request.</p> <p>DHS reserves the right to impose additional penalties to those stated below, including without limitation: a) Withholding payment on future invoices until the Contractor is in full compliance; b) Maintaining a below standard Vendor Performance Report (VPR) in the vendor file for the Contractor; and c) Terminating the contract.</p>		
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<b>Provision of Care</b>	<p>Services are provided in compliance with Intermediate Care facility for individuals with Intellectual Disabilities regulations and the Commission on Accreditation of Rehabilitation Facilities standards.</p> <p>Provide a temporary replacement PT within fifteen (15) calendar days of the vacancy and a permanent replacement within thirty (30) calendar days of vacancy.</p>	<p>A five hundred dollar (<b>\$500</b>) penalty will be assessed for each instance of Insufficient Performance.</p> <p>A one thousand dollar (<b>\$1,000</b>) penalty may be assessed per incident of Insufficient Performance for repeat noncompliance.</p>
<b>Training</b>	<p>PT <b>must</b> train SEAHDC staff involved in the care of the resident(s) served through physical therapy techniques.</p> <p>The PT-provided trainings <b>must</b> emphasize interventions and techniques to restore, maintain, and prevent regression of physical/cognitive function of the patient/residents.</p>	<p>A two-hundred fifty dollar (<b>\$250</b>) penalty will be assessed for each instance of Insufficient Performance.</p> <p>A five-hundred dollar (<b>\$500</b>) penalty may be assessed per incident of Insufficient Performance for repeat noncompliance.</p>
<b>Evaluation</b>	<p>Evaluations <b>shall</b> be completed within fourteen (14) calendar days of receiving the referral.</p> <p>PT shall provide the required services and develop physical therapy plans are developed in</p>	<p>A two-hundred fifty dollar (<b>\$250</b>) penalty will be assessed for each instance of Insufficient Performance.</p> <p>A five-hundred dollar (<b>\$500</b>) penalty may be assessed per incident of Insufficient</p>

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	compliance with ICF/IID regulations and CARF standards in conjunction with the client's Interdisciplinary Team.	Performance for repeat noncompliance.
<b>Reporting Requirements</b>	All reports, patient records, and incidents <b>shall</b> comply with the requirements specified in the Scope of Work, applicable policy, state and federal laws and regulations including ICF/IID regulations, CARF standards, and ICF/MR regulations ICF standard W319.	A two-hundred fifty dollar <b>(\$250)</b> penalty will be assessed for each instance of Insufficient Performance.  A five-hundred dollar <b>(\$500)</b> penalty may be assessed per incident of Insufficient Performance for repeat noncompliance.
<b>Meetings</b>	PT <b>shall</b> attend planning sessions, team meetings, staff meetings, and conferences as required by the SEAHDC.	A two-hundred fifty dollar <b>(\$250)</b> penalty will be assessed for each instance of Insufficient Performance.  A five-hundred dollar <b>(\$500)</b> penalty may be assessed per incident of Insufficient Performance for repeat noncompliance.
<b>Additional Specifications</b>	<p>The PT <b>must</b> perform functions as specified by the SEAHDC, in accordance with all Federal, State, institutional procedures, policies, guidelines, administrative orders, directives and applicable regulations, including Health Insurance Portability and Accountability Act (HIPAA) as applicable to the SEAHDC.</p> <ol style="list-style-type: none"> <li>1. The PT <b>must</b> immediately notify the SEAHDC administrator of any changes in PT licensure.</li> <li>2. The PT <b>shall</b> participate in the SEAHDC new employee orientation program prior to the provision of services.</li> <li>3. The PT <b>shall</b> provide the facility with a copy of his or her criminal background</li> </ol>	<p>A two-hundred fifty dollar <b>(\$250)</b> penalty will be assessed for each instance of Insufficient Performance.</p> <p>A five-hundred dollar <b>(\$500)</b> penalty may be assessed per incident of Insufficient Performance for repeat noncompliance.</p>

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	<p>check, drug screening, and TB skin test. The PT <b>must</b> be cleared for work at the SEAHDC prior to his or her attendance at orientation.</p>	
<p><b>Mandated Reporting</b></p> <p>Pursuant to Ark. Code Ann. §§ 12-18-402(b)(10) and 12-12-1708(a)(1)(AA), Contractor and all of its employees, agents, and all Subcontractors and Subcontractor’s employees and agents shall immediately make a report to the Child Abuse Hotline or the Adult Maltreatment Hotline (based on type of maltreatment) if Contractor or any of its employees, agents, or Subcontractors’ employees and agents, while performing duties under this contract, have reasonable cause to suspect that:</p> <ul style="list-style-type: none"> <li>a. A child has been subjected to child maltreatment;</li> <li>b. A child died as a result of child maltreatment;</li> <li>c. A child died suddenly and unexpectedly; or</li> <li>d. Observe a child being subjected to conditions or circumstances that would reasonably result in child maltreatment.</li> </ul> <p>or</p> <ul style="list-style-type: none"> <li>e. An endangered person or an impaired person has been subjected to conditions or circumstances that constitute adult maltreatment or long-term care facility resident maltreatment.</li> </ul> <p>A privilege or contract shall not prevent a person from reporting maltreatment when he or she is a mandated reporter and required to report under this section.</p> <p>An employer or supervisor of a mandated reporter shall not prohibit an employee or a volunteer from directly reporting maltreatment to the Hotline.</p> <p>An employer or supervisor of a mandated reporter shall not require an employee or a volunteer to obtain</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>For each failure to report, DHS may impose:</p> <p>Up to a ten percent (10%) penalty will be assessed in a future months’ payment to the Contractor for each failure to report. The penalty will be calculated from the total payment for the identified month the deficiency took place.</p> <p>DHS may elect to calculate penalties/damages differently per occurrence.</p>

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<p>permission or notify any person, including an employee or a supervisor, before reporting maltreatment to the Hotline.</p> <p>Pursuant to Act 531 of 2019, Ark. Code Ann. §§ 12-18-402(b)(10) and 12-12-1708(a)(1)(AA), Contractor and all of its employees, agents, and all Subcontractors and Subcontractor's employees and agents are mandated reporters.</p>		
<p><b>Conflict of Interest Mitigation</b></p> <p>During the term of this contract, the Vendor <b>shall</b> comply with the terms of the DHS Organizational or Personal Conflict of Interest provisions.</p>	<ol style="list-style-type: none"> <li>1. The Vendor <b>shall</b> disclose all actual, apparent, or potential conflicts of interest to DHS within five (5) days of having knowledge of them.</li> <li>2. The Vendor <b>shall</b> develop a mitigation plan as requested by DHS which must be approved and accepted by DHS.</li> <li>3. Any changes to the approved mitigation plan must be approved in advance by DHS.</li> </ol>	<p>A one thousand dollars (\$1,000) per day for each day past five (5) days for each actual, apparent, or potential conflict of interest it fails to disclose.</p> <p>Ten thousand dollars (\$10,000) for the first failure to comply with the mitigation plan developed by the Vendor and approved by DHS.</p> <p>Each subsequent violation of the mitigation plan shall be twice the amount of the immediately preceding violation fine.</p>
<p><b>Transition Planning</b></p> <p>Ninety (90) days prior to the contract end date, the vendor <b>shall</b> submit to DHS a detailed plan for transitioning all contracted services to DHS, or to another vendor selected by DHS to provide the contracted services.</p> <p>The transition plan <b>shall</b> include provisions for the delivery of all proprietary data collected and/or created during the life of the contract to DHS thirty (30) days prior to the contract end date.</p> <p>All proprietary data collected and/or created during the final thirty (30) days of the contract, or any proprietary data not captured in the initial delivery, <b>shall</b> be delivered to DHS no more</p>	<p>The Vendor <b>must</b> maintain one hundred percent (100%) compliance with this item at all times throughout the term of the contract.</p>	<p>If the Vendor fails to meet the acceptable performance standard, DHS may issue a below standard Vendor Performance Report (VPR) maintained in the vendor file.</p> <p>Final payment may be withheld from the vendor until all elements of the transition are satisfied as determined by DHS.</p>

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than fifteen (15) days following the contract end date.		
<p><b>Arkansas Freedom of Information Act (Ark. Code Ann. § 25-19-101 et seq.):</b></p> <ol style="list-style-type: none"> <li>1. Contractor <b>shall</b> cooperate with DHS requests for information and documents that DHS requires to fulfil an Arkansas Freedom of Information Act (FOIA) request.</li> <li>2. Contractor <b>shall</b> timely provide all documents in its possession or control to DHS that match the request made by DHS.</li> <li>3. Contractor is subject to Arkansas FOIA law pursuant to Ark. Code Ann. § 25-19-103(7)(A).</li> <li>4. Contractor <b>shall</b> timely and accurately respond to FOIA requests made directly to Contractor. See Ark. Code Ann. §25-19-101 et seq. for specific requirements. For all FOIA requests received, the Contractor <b>shall</b> also notify DHS of the request at <a href="mailto:DHS.FOIA@arkansas.gov">DHS.FOIA@arkansas.gov</a>.</li> </ol>	<p>Contractor <b>shall</b> respond to FOIA requests timely and accurately one hundred percent (100%) of the time.</p> <p>Contractor <b>shall</b> provide information and documents to DHS upon request in the timeframe specified in the request one hundred percent (100%) of the time. DHS <b>shall</b> have sole determination as to the sufficiency of Contractor's response and provision of documents.</p>	<p>For each failure to meet performance standard, DHS may impose:</p> <p>Up to a ten percent (10%) penalty will be assessed in the future months' payment to the Contractor for each failure to report. The penalty will be calculated from the total payment for the identified month the deficiency took place. DHS may elect to calculate penalties/damages differently per occurrence.</p> <p>Contractor <b>shall</b> be responsible for any penalties, fees, and costs imposed on DHS associated with vendor's failure to timely and accurately provide the requested information and documents.</p>

<sup>i</sup> Nothing in this table is intended to set forth all obligations of the Contractor under the contract. These obligations are in addition to any others imposed by the contract and applicable law.

<sup>ii</sup> The damages set forth are not exclusive and shall in no way exclude or limit any remedies available at law or in equity.