

**Contract  
for  
Haywood County**

**08/01/11 – 06/30/12**

**Prepared by  
Key Risk Management Services, LLC  
Post Office Box 49129  
Greensboro, NC 27419  
800.942.0225**

**KEY RISK MANAGEMENT SERVICES, LLC  
PROFESSIONAL SERVICES CONTRACT**

**I. SCOPE OF WORK**

Key Risk Management Services, LLC ("Key Risk") shall render all the services specified in Exhibit A, attached hereto and made a part hereof. The services shall be performed in accordance with such requirements or restrictions as may be lawfully imposed by governmental authority and shall exclude any activities that may be deemed the practice of law.

**II. CONTRACT PRICE**

Haywood County (hereafter referred to as "Client"), shall pay Key Risk for its performance under this contract in accordance with the schedule contained in Exhibit B, attached hereto and made a part hereof. Unless otherwise specifically provided in Exhibit B, the scheduled payments include the cost of all labor, equipment, materials and travel required to complete the services described in Exhibit A.

**III. BILLING AND PAYMENT**

Key Risk shall submit invoices for all work performed under this contract. Invoices against this contract shall indicate the work performed for which billing is rendered, shall be in accordance with the schedule of payments in Exhibit B, and shall be submitted to the following: Julie Davis, Finance Director, Haywood County, 215 North Main Street, Waynesville, SC 28786. All payments are due within thirty (30) days of the invoice date.

**IV. DURATION**

This contract applies to all work performed by Key Risk which is described in Exhibit A hereto, whether performed in anticipation of or following the execution of this contract. The initial contract term of this contract shall begin on August 1, 2011 and shall expire on June 30, 2012, unless otherwise terminated as provided for herein.

Upon expiration of the initial contract term, the contract shall automatically renew itself from year-to-year subject to termination by either party upon ninety (90) days written notice. Further and notwithstanding any other term herein, either party may terminate this Agreement at any time, without cause and without penalty, upon the provision of at least (90) days prior written notice to the other party.

Key Risk may terminate this contract upon thirty (30) days written notice in the event Client fails to

pay any invoice when due. Client may avoid such termination by paying all outstanding invoices within the notice period.

When this contract is terminated, then and in that event, the parties shall make a reconciliation to determine the amount Key Risk is entitled or obligated to pay back under this contract for services performed prior to the date of termination. Thereafter, Client shall pay Key Risk monies due and owing after such reconciliation, if any, or Key Risk shall refund monies due and owing Client after such reconciliation, if any. Unless otherwise mutually agreed in writing by the parties, Key Risk shall have no obligation to perform any further services for Client of any kind after the date of termination or expiration.

## **V. CONFIDENTIAL INFORMATION**

Any payroll information or other technical or business information ("Information") furnished or disclosed hereunder is the property of Client and shall be deemed confidential to Client and shall be returned to Client at the conclusion of this contract. If such information is known to the public Key Risk is free of any obligation to keep it confidential. Information subsequently made public need not be held in confidence by Key Risk Management Services, LLC.

Key Risk will maintain all claim files and all records in such a manner that Client can be given a copy of its files and records in the format in which the information is maintained by Key Risk. All computerized information shall be provided in a tape, disc, or other electronic format. All other information shall be provided in hard copy form. Records and files shall be provided to Client upon demand and shall be at the expense of Client, if any expense is incurred. Such demands for the files, records, reports or other information shall be made in writing and demanded items shall be delivered to Client within thirty (30) days of such demand.

## **VI. RELATIONSHIP**

Key Risk shall exercise full control and direction over the subcontractors and employees of Key Risk performing the work covered by this contract.

Neither Key Risk nor its employees, agents or subcontractors shall be deemed to be employees of Client. It is understood that Key Risk is an independent contractor for all purposes and at all times. Key Risk is wholly responsible for withholding and payment of all federal, state and local income and other payroll taxes with respect to its employees.

## **VII. INDEMNIFICATION**

Key Risk shall indemnify, defend and hold harmless, Client, its officers, directors, employees, agents and assigns with respect to any claims, demands, actions, damages, costs and expenses resulting from any errors, omissions, torts, intentional torts, or other negligence of Key Risk, its servants, agents, employees, associates or subcontractors. Client shall indemnify, defend and hold harmless, Key Risk,

its officers, directors, employees, agents and assigns with respect to any claims, demands, actions, damages, costs and expenses to the extent resulting from the instructions, acts, or omissions of Client.

### **VIII. CLAIMS FUNDING AND EXPENSE PAYMENT**

Client will provide funds to Key Risk for the payment of claims and claim expenses, to be held in Key Risk's trust account and in an amount mutually agreed upon by Client and Key Risk. The parties acknowledge and agree that Client will not receive any interest on the funds or any charges for fees associated with account maintenance. Client agrees to provide additional funds from time to time, as requested, to meet or exceed all expected paid claims and claims expenses.

### **IX. ASSIGNMENT**

This Agreement shall be binding upon and inure to the benefit of the successors of each of the parties hereto, however neither this Agreement nor any rights or obligations hereunder may be assigned, delegated or transferred by either party without the prior written consent of the other party.

### **X. MEDIATION**

As a condition precedent to any suit brought by either party, any controversy or claims asserted by either party, including but not limited to claims of negligence or breach of contract, shall be submitted to non-binding mediation under the supervision of an entity specializing in alternative dispute resolution. The supervising ADR entity shall be selected by mutual consent within fifteen (15) days of the initial notification by either party of a controversy, but if the parties cannot agree, the supervising ADR shall be the American Arbitration Association. Mediation shall be held no later than forty-five (45) days after the initial notification of controversy, except that an extension of time may be made by mutual written consent.

### **XI. SEVERABILITY**

If any provisions of this Agreement or application to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement, or the application of such provisions or circumstances other than those as to which it is determined to be invalid or unenforceable shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law.

## **XII. GOVERNING LAW**

This Agreement will be governed by the laws of the State of North Carolina.

## **XIII. AMENDMENT**

The terms and provisions contained and referenced herein constitute the entire Agreement between the parties and supersede any previous communications, representations or Agreements, either oral or written, with respect to the subject matter hereof. This Agreement may not be amended except in a writing signed by both parties.

## **XIV. NOTICE**

All notices, certificates or other communications provided for, authorized or required under this Agreement will be sufficiently given and will be deemed given when mailed by certified or registered mail, postage prepaid, with proper address indicated below. Until otherwise provided by the respective parties, all notices, certificates and communications to each of them will be addressed as follows:

### **IF TO COMPANY:**

Key Risk Management Services, LLC  
Caldwell Building  
7900 McCloud Road, Suite 300  
Greensboro, North Carolina 27409  
Attn: Penny Gough.

### **IF TO CLIENT:**

Haywood County  
215 North Main Street  
Waynesville, NC 28786  
Attn: Susan Layton

## EXHIBIT A

### SERVICE ELEMENTS

This is the Exhibit A referred to in the foregoing Contract between Client and Key Risk Management Services, LLC and sets forth the principal services to be performed under this Contract.

Key Risk will perform the following services:

1. Administer all claims assigned to Key Risk by Client and any newly reported claims after the effective date of the contract.
2. Investigate, adjust and notify Client of questionable or improper claims before undertaking further activity.
3. After auditing medical bills for conformity to accepted reasonable fee schedules, Key Risk will tabulate and approve for payment all medical, hospital, compensation, and other benefits required by the Workers' Compensation Law, which shall be paid in accordance with the procedure agreed upon by the parties hereto.
4. Utilize the services of outside medical resources or advisory bodies with Client's approval.
5. Upon approval, potential rehabilitation cases can be recommended to firms known to develop rehabilitation plans with realistic goals. Key Risk will direct and monitor all cases for effectiveness and cost containment.
6. Establish the amount of and revise claim reserves.
7. Where necessary, contact claimants to obtain needed information, assure medical treatment, answer questions and encourage positive resolution.
8. Utilize an appropriate payment system in accordance with Client's fiscal policies, procedures and state requirements.
9. Maintain a current roster of physicians and/or medical specialists who provide initial treatment or specialty care. Consultations will be arranged as needed.
10. Recommend experienced and qualified legal counsel for Client's approval where needed for the defense of litigated workers' compensation claims. Key Risk will provide all pertinent information to the participant's legal counsel necessary to accommodate scheduled hearings before the NC Industrial Commission.

11. Initiate subrogation proceedings in making reasonable administrative efforts to recover from third parties, benefits paid under this program for which they may be legally liable; and cooperate with such legal counsel as may be designated in any legal action as may be necessary to affect such recovery.
12. Recommend specialized professional investigative services where needed.
13. Furnish statistical reports showing open and closed claims by location and a tabulation of all payments made and reserves set up for benefits and expenses because of occupational injuries sustained by employees.
14. Key Risk will file and report all necessary notices to the Excess Insurance carrier on behalf of the Client so long as the Client provides Key Risk with sufficient excess policy information and advises Key Risk on the appropriate reporting guidelines for each policy.
15. As agreed upon, Key Risk will compile and file all notices and reports required under the Workers' Compensation Statutes of the State of North Carolina.
16. Key Risk will maintain Special Account Handling Instructions as agreed to by both parties specific to the handling of Client's claims.
17. Client acknowledges and agrees that timely and complete reporting of claims is critical to the performance of Key Risk's services described herein.
  - a. In the event Client self administers a claim, Key Risk shall have no responsibility relating to such claim.
  - b. In the event Client directly pays claim related expenses for a claim that has been reported to Key Risk, Client shall be solely responsible for providing information to Key Risk so that the claim files maintained by Key Risk on Client's behalf may be updated. Further, Client shall be responsible for any issues related to the appropriateness of the expenses paid and the accuracy of the information provided to Key Risk.
18. Key Risk will issue 1099 forms and related reports to the IRS for payments issued by Key Risk during the term of this Contract.

## **EXHIBIT B**

### **FEES AND REIMBURSABLE EXPENSES**

This is the Exhibit B referred to in the foregoing Contract between Client and Key Risk Management Services, LLC and shows the amounts to be paid to Key Risk for the various services to be performed under this Contract.

Client agrees to pay Key Risk the following fees for services provided:

#### ***I. Administrative Fees***

The annual flat fee for the services provided shall be \$20,000. (The prorated amount for the current 11 month contract period is \$18,333.)

#### ***II. Other Fees***

The fee for broker services is \$5,000.

Fees for medical cost containment are contained in Exhibit C.

Billing for services performed during a period of less than a calendar month is prorated.

#### **Allocated Expenses**

In addition to the amounts charged per the fee schedule, Client will be responsible for allocated expenses. These are defined as medical bill audit/review services, PPO/Network savings, utilization review services, indexing, nurse review savings; court costs; fees for services of process; fees paid to independent claim adjusters or claim investigators handling claims involving the client; fees to attorneys'; costs of undercover operative and detective services; cost of employing experts for preparation of maps, photographs, diagrams, chemical or physical analysis; advice, opinion or testimony concerning claims under investigation or in litigation; costs for legal transcripts of testimony taken at coroners' inquests; criminal or civil proceedings; costs for copies of any public records; costs of depositions and court reported or recorded statements; and any other similar fee, cost or expense reasonably charged for investigation, negotiation, settlement or defense of a claim or loss or to the protection and perfection of the subrogation rights of a client; and extraordinary travel expenses incurred by Key Risk at the request of the Client.

If this offer is not accepted within ninety (90) days following the proposal date, the offer shall expire. In the event this service contract is discontinued, Key Risk will return all of the open claim files at the time of termination. Key Risk will continue to handle such open files at the time of termination for an additional fee to be agreed upon at that time.

**EXHIBIT C**

**MEDICAL COST CONTAINMENT SERVICES**

Allocated to the claim file

Utilization Review Services

Pre-Certification	\$125 flat rate per intervention
Concurrent Review	\$100 flat rate per intervention
Retrospective Review	\$145 flat rate per assignment
Peer Review	\$195 flat rate per assignment*
Physician Advising	Physician Fee* (plus 25% admin. charge)

\*(Rate dependent upon needs of case and always pre-approved by claims adjuster)

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Medical Bill Review

Medical Bill Repricing: Processing bills and reducing to Fee Schedule - \$8.50 per bill  
Enhanced Savings: Other savings including Provider Network Access,  
Nurse Review & Pharmacy Bills - 30% of Savings

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Telephonic Case Management Services

Actual Time at \$84 per hour

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Nurse Research & Consulting Services

Actual Time at \$84 per hour plus actual expense

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Onsite Case Management Services

Medical Case Management

Actual Time at \$84 per hour plus actual expense

(Travel & Wait Time will be prorated unless activities/travel consume entire workday)

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Medicare Set Aside Services

File Evaluation	\$175
MSA Allocation	\$2,800 (Standard) or \$3,000 (Complex)
Submission to CMS	\$650
Drug Utilization Review	\$500
Expedited Referral	\$500 (5 business days) or \$350 (10 business days)

**EXECUTION OF CONTRACT**

This contract is entered into as outlined in pages one through ten of the foregoing contract between Haywood County and Key Risk Management Services, LLC.

**Key Risk Management Services, LLC**

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**Haywood County**

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*Signature*

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*Signature*

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**Penny Gough**  
*Printed Name*

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**Marty Stamey**  
*Printed Name*

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**Assistant Vice President,  
Alternative Risk Services**  
*Title*

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**County Manager**  
*Title*

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*Date*

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*Date*

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**CONTACTS FOR HAYWOOD COUNTY  
AT KEY RISK MANAGEMENT SERVICES, LLC  
800.942.0225**

Workers' Compensation Claims Adjuster	Teresa Vogler (Extension 7364)
Workers' Compensation Claims Supervisor	Latanya Scott (Extension 7632)
Assistant Vice President, Alternative Risk Services	Penny Gough (Extension 5022)
Reports/Customer Service	Treva Dawson (Extension 7349)
Reports/Customer Service Manager	Tasha Pressley (Extension 7472)
Billing/Accounting	Donna Street (Extension 7408)
Client Relations Manager	Carolyn Rhodes (Extension 7386)

**KEY RISK MANAGEMENT SERVICES, LLC OFFICES**

Post Office Box 49129  
Greensboro, NC 27419

Post Office Box 2670  
Alpharetta, GA 30023

Post Office Box 1959  
Columbia, SC 29202

7 St. Paul Street  
Baltimore, MD 21202

Post Office Box 25579  
Richmond, VA 23260

4944 Parkway Plaza Blvd,  
Suite 480  
Charlotte, NC 28217

**ADDITIONAL SERVICE ADDENDUM TO CONTRACT**  
**Medicare § 111 Reporting Services (Account Manager)**

This Additional Service Addendum to the Contract between the parties hereto (“Addendum”), is made as of August 1, 2011 (the “Addendum Effective Date”), by and between Key Risk Management Services, LLC. (“Key Risk”) and Haywood County (“Client”).

1. **Purpose of Addendum.** Key Risk and Client entered into that certain contract dated August 1, 2011 (the “Agreement”). Client now desires that Key Risk provide additional services related to the mandatory reporting provisions of Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 (“MMSEA”) for those claims covered by the Agreement (“Applicable Claims”).
2. **Definitions**
  - 2.1 Claim Input File – means the data set transmitted from a MMSEA RRE to the COBC containing claim information for all Applicable Claims identified as involving Medicare beneficiaries.
  - 2.2 Claim Response File – means the file transmitted from the COBC to the RRE’s account in response to a particular Claim Input File, containing the following for each claim contained in the Claim Input file: (a) data elements from the Claim Input File; (b) data elements from Medicare’s files; (c) a code indicating the results of processing; and (d) any error codes and compliance flags associated with each claimant’s file.
  - 2.3 CMS – means the Centers for Medicare & Medicaid Services, which is the entity responsible for implementation of the MMSEA reporting program.
  - 2.4 COBC – means the Coordination of Benefits Contractor, which is the entity that is assisting the CMS in the implementation of the MMSEA reporting program and manages the reporting systems and databases, including the RRE registration and reporting website.
  - 2.5 Data Elements – means the specific information required to be reported by the RRE to the CMS pursuant to MMSEA for each Applicable Claim.
  - 2.6 Query File – means a dataset of all Applicable Claims of the RRE transmitted on a particular date to the COBC to request information regarding whether any of the claimants are Medicare beneficiaries (is or was entitled and enrolled in Medicare).
  - 2.7 Query Response File – means a the file transmitted from the COBC to the RRE’s account in response to a particular Query File, indicating which of the queried Applicable Claims can be identified as involving Medicare beneficiaries based upon the information submitted.
  - 2.8 RRE – means Responsible Reporting Entity, and is the legal entity responsible for reporting claim information of Medicare recipients pursuant to the MMSEA.

3. **Services Provided by Key Risk.** Key Risk will provide the following services to Client related to Clients' MMSEA reporting requirements for the Applicable Claims ("Services"):

3.1 Completion of the Testing Process for File Submissions. Key Risk will complete all Query File and Claim Input File submission testing required by the COBC and obtain approval from the COBC for reporting of real data.

3.2 Processing of Client's Query File.

A. On a monthly basis, Key Risk will assemble and transmit Client's Query File to the COBC within the submission timeframe assigned to Client by COBC.

B. Key Risk will receive and review the Query Response File transmitted to Clients RRE Account by the COBC, and will use reasonable efforts to correct any mismatches or errors identified in the Response File, subject to Client's obligations to assist with the correction of any such mismatches or errors.

3.3 Processing of Client's Claim Input File.

A. Key Risk will make reasonable efforts to collect all Data Elements required for every Applicable Claim.

B. On a quarterly basis, Key Risk will assemble and transmit Client's Claim Input File to the COBC within the submission timeframe assigned to Client by COBC.

C. Key Risk will retrieve and review the Claim Response File transmitted to Clients RRE Account by the COBC. Key Risk will then use reasonable efforts to correct any mismatches or errors identified in the Response File, subject to Client's obligations to assist with the correction of any such mismatches or errors.

3.4 Resolution of Noncompliance Issues. Upon request of Client, Key Risk will assist Client in responding to any issues raised by CMS, including any notices of noncompliance.

3.5 Account Manager Services. Key Risk will serve as Account Manager for Client and perform all functions generally required of account managers by MMSEA.

4. **Obligations of Client.** Client agrees to cooperate with Key Risk and assist Key Risk in the collection of claimant Data Elements for the Applicable claims, and assist Key Risk with the correction of any errors and/or mismatches in the Data Elements for the Applicable Claims within the timeframes required by the CMS for such corrections. Client will provide all Client RRE account-related information necessary for Key Risk to perform the Services described in this Addendum, including without limitation, the RRE ID, and the Claim Input File reporting period. Additionally, Client will make any changes in the RRE account reasonably requested by Key Risk, including without limitation, any necessary changes in file transmission method, and appointment or removal of Account Designees. Client will promptly provide Key Risk with

copies of any correspondence received by Client from CMS relating to Client's MMSEA reporting reasonably requested by Key Risk.

## 5. **Term & Termination.**

5.1 **Term.** This Addendum will be in effect as of the Addendum Effective Date and shall run concurrently with the current term of the Agreement.

5.2 **Early Termination by Either Party.** During the term of this Addendum or any period of renewal, either party may terminate this Addendum upon the occurrence of any one of the following events and in accordance with the following procedures:

- A. Either party may terminate this Addendum in the event of a materials breach by the other party, upon thirty (30) days advance written notice of such breach.
- B. This Addendum may be terminated by either party for any reason, upon ninety (90) days advance written notice.
- C. This Addendum shall automatically terminate upon the termination of the Agreement.

## 6. **Limitation of Services**

6.1 **Reporting of Applicable Claims.** Key Risk will only provide the reporting Services to Client for Applicable Claims.

6.2 **Collection/Accuracy of Data Elements.** Client acknowledges and agrees that there are an extensive number of Data Elements that must be collected for each Applicable Claim and narrow timeframes for the preparation and submittal of the Query File and the Claim Input Files to the CMS. Therefore, Key Risk shall not be responsible for any liabilities, fines, penalties, expenses, or any other form of damages or sanctions arising out of or resulting from any of the following:

- A. Client's failure to promptly report any claim to Key Risk.
- B. Key Risk's inability to collect any Data Element(s) for any Applicable Claim if Key Risk has made a reasonable attempt to collect such Data Element(s).
- C. Any erroneous Data Elements for any Applicable Claim provided by (1) Client, (2) the injured party or his/her attorney, (3) any third party, including without limitation, medical providers or vendors, or CMS and/or COBC, and/or (4) any missing or erroneous Data Elements from any Applicable Claim transferred to Key Risk by Client or a prior administrator/service provider for Client.

6.3 **Limitation of Liability.** The total liability of Key Risk, including its owners, managers, officers, and employees, to Client under this Addendum, including attorneys' fees, shall not

exceed the total amount of fees received by Key Risk for the particular claim or claims from which the liability arises, regardless of the legal theory under which such liability is imposed.

## 7. **General Provisions**

- 7.1 Use of Subcontractors. Key Risk reserves the right to use subcontractors for any portion of the MMSEA reporting program.
- 7.2 Modifications. In the event of any of any change(s) in reporting requirements pursuant to MMSEA, Key Risk may unilaterally modify the terms of the Services provided to the extent reasonably necessary to comply with such change(s) in reporting requirements. Key Risk shall provide at least thirty (30) days advance written notice of such modifications to Client unless the nature of the change(s) to the MMSEA reporting requirements require more rapid modification of the Services, in such case Key Risk will provide reasonable notice as the circumstances allow. All other modifications shall be in writing and signed by the parties.
- 7.3 Unforeseen Circumstances. Neither party shall be liable or deemed to be in breach for a delay or failure in performance of this Addendum or interruption of services resulting from acts of God, civil or military authority, war, riots, civil disturbances, accidents, fire, earthquake, floods, strikes, lock-outs, labor disturbances, foreign or governmental order or other similar causes not reasonably within its control.
- 7.4 Entire Agreement. This Addendum constitutes the entire agreement among the Parties with respect to its subject matter and supersedes all other prior agreements and understandings, both written and oral.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum as of the date first written above.

**Key Risk Management Services, LLC**

**Haywood County**

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Signature*

**Penny Gough**

**Marty Stamey**

*Printed Name*

*Printed Name*

Assistant Vice President,  
Alternative Risk Services

County Manager

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Date*