

2016-2017-SCHOOL-BASED ACCESS PROGRAM BILLING AGREEMENT

THIS **SCHOOL-BASED ACCESS PROGRAM BILLING AGREEMENT** is made the 26 day of September, 2018 between **NORTHWEST TRI-COUNTY INTERMEDIATE UNIT 5**, a Pennsylvania Intermediate Unit with a principal office located at 252 Waterford Street, Edinboro, Pennsylvania 16412 (hereinafter "IU-5") and **Warren County School District**, a Pennsylvania public school District with a principal office located at 6820 Market Street, Russell, PA 16345-3406, (hereinafter "District").

WHEREAS, School-Based ACCESS Program (SBAP) authorizes local education agencies, including the District, to receive reimbursement for direct and administrative service costs;

WHEREAS, SBAP Direct Services are health-related services provided by school-based service providers that are provided or purchased by local education agencies enrolled in the Medical Assistance (MA) Program to MA-eligible beneficiaries, 3-21 years of age, for whom the service is medically necessary and documented in the individual's IEP;

WHEREAS, SBAP Direct Services involve the face-to-face delivery of medically necessary services provided by local education agencies, including Assistive Technology Devices; Nursing Services; Nurse Practitioner Services; Occupational Therapy Services; Orientation, Mobility, and Vision Services; Personal Care Services; Physical Therapy Services; Physician Services; Psychological, Counseling and Social Work Services; Special Transportation Services; and Speech, Language, and Hearing Services;

WHEREAS, SBAP Administrative Services include services provided by the local education agencies that are in support of direct services;

WHEREAS, the Pennsylvania Department of Education receives funds that are reimbursed from the federal Medicaid SBAP for direct health-related services, which it maintains in local education agency-specific accounts, and from which local education agencies are eligible to receive reimbursement, upon application, for use in expanding or enhancing special education programs;

WHEREAS, the District provides SBAP Direct and Administrative Services to eligible students in the District for which it desires to make claims for reimbursement of eligible costs for use in expanding or enhancing its special education services;

WHEREAS, the District desires to retain IU-5 to provide school-based ACCESS billing services on behalf of the District;

WHEREAS, IU-5 possesses the expertise and skill necessary to provide such billing services to the District; and

NOW THEREFORE, in consideration of the foregoing promises and the mutual promises, terms, provisions and conditions set forth in this Agreement, the parties hereby agree:

1. DUTIES OF IU-5. Effective September 26, 2018 ("Effective Date"), IU-5 shall have the following duties pursuant to this Agreement:

A. IU-5 shall provide school-based ACCESS billing services to the District and shall submit such relevant documentation to the Pennsylvania Department of Education on behalf of the District in order to accomplish the same;

B. IU-5 shall promptly reimburse the District any and all amounts received from the Pennsylvania Department of Education and due the District for services provided by IU-5 staff to District students, after deduction for IU-5 costs, upon receipt of information from the Commonwealth's SBAP provider, following cost settlement;

C. IU-5 shall provide to the District information and cooperation, as necessary, for an Audit Firm to perform a Single Audit for the District; and

D. IU-5 shall cooperate with the District in resolving any proposed disallowances the District's Audit Firm recommend as a result of audits, or any final audit disallowances imposed by the appropriate regulatory authorities; provided, however, that IU-5 shall not be held liable by the District for such disallowed costs, or for any non-payment or partial non-payment by the Pennsylvania Department of Education.

2. DUTIES OF THE DISTRICT. During the term of this Agreement, the District shall have the following duties:

A. The District shall comply with all terms and conditions outlined in ACCESS guidelines attached to this agreement as Exhibit "A" and made a part hereof;

B. The District shall maintain complete cost records of all expenditures made in association with this Agreement, as well as employee, programmatic, statistical records, and supporting documents;

C. The District shall submit detailed expenditure reports to IU-5 as the formal request for payment of ACCESS funds;

D. The District will have a Single Audit performed in accordance with all applicable regulations, a copy of which will be provided to IU-5, if not otherwise provided; and

E. Any final audit disallowances imposed on IU-5, resulting from reimbursements to the District for expenditures under this Agreement shall be the responsibility of the District, and the District shall reimburse IU-5 on a timely basis if any such costs are disallowed.

3. PDE PAYMENT. The parties understand that payment will only be issued to IU-5 by the Pennsylvania Department of Education upon receipt of an invoice(s) from IU-5. The District is responsible for submission of detailed invoices in the amount of \$26903.22 to IU-5 for reimbursement of allowable expenses.

4. DEVELOPMENT OF AGREEMENT. The development and execution of this Agreement is intended to be in accordance with ACCESS Guidelines and directives issued by the Pennsylvania Department of Education and shall be subject to the provisions of all pertinent Federal and State laws, regulations, and standards.

5. ACCESS TO WORKING PAPERS. The District, any appropriate Federal or State Agency, or audit firm performing a Single Audit for the District or IU-5 shall have free and unrestricted access to the workpapers, records, other supportive documentation and reports prepared, or in the process of being prepared, in connection with the billing performed under this Agreement. Free and unrestricted access to and the right to require submittal of the documentation to the District or an appropriate agency shall exist during the contract term and shall continue for six (6) years from the date of submission of the final invoice or until litigation, audit, or claim has been fully resolved, if later.

6. FRAUD AND ILLEGAL ACTS. If, during the term of the Agreement, or subsequent auditing of the services provided by or on behalf of the District during the term hereof, IU-5 uncovers indications of possible fraud or other illegal acts, IU-5 shall immediately notify the District and in writing.

7. RELATIONSHIP OF PARTIES. The District's relationship to IU-5 is that of an independent contractor, and under no circumstances shall this agreement be construed, deemed, or considered as an employment agreement or a joint venture between the District and IU-5. IU-5 is authorized to act as an agent of the District for the limited purpose of providing the billing services contemplated by this Agreement. The District shall have no responsibility for the payment to or on behalf of IU-5 or any of its employees of any wages, salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension or other deferred compensation plans (including but not limited to workers' compensation and Social Security obligations, and licensing and certification fees and expenses), nor will The District have any responsibility for the filing of any documents, forms and returns pertinent to all of the foregoing. IU-5 is responsible for the payment of all of its employees expenses mentioned above. IU-5 additionally agrees to pay any and all taxes, withholding payments, penalties, fees, Social Security obligations and similar obligations for its employees and agrees to hold The District harmless against any claims against The District therefore relating to IU-5's obligations hereunder. The District shall not control the practice of IU-5 or its staff. IU-5 shall be responsible for all expenses of its business and any and all employees of IU-5.

8. PAYMENT TO IU-5. IU-5 will recoup the cost of services provided to districts for administering the SBAP program through revenues generated by IU-5 providers. Upon completion of the Cost Settlement process for each school year, costs for the District will be calculated based on the percentage of funds generated. After IU-5 costs are deducted from SBAP revenue, remaining funds will be due to the District and will be paid upon receipt of aforementioned invoice.

9. TERM. The term of the Agreement shall commence with the execution of this Agreement and shall end upon the termination of the Agreement by one of the parties.

10. TERMINATION WITH OR WITHOUT CAUSE. Either party shall have the right, for any reason, with or without cause, to terminate this Agreement by giving at least thirty (30) days written notice by certified mail, return receipt requested, of its intent to terminate to the non-terminating party.

11. INVOLUNTARY TERMINATION. This Agreement may be terminated by either party immediately upon ten (10) days prior written notice for breach by the other party of the provisions of this Agreement and the continuance of such breach after said notice and a reasonable opportunity to cure.

12. NOTICE. Any notice required or allowed to be given hereunder, including change of address, shall be by United States mail, registered or certified, with return receipt requested, and addressed to the party to this Agreement to whom notice is given, and notice shall be deemed given on the date indicated as received on any such return receipt. The addresses to which notices are to be given are as follows:

To the District at:

Warren County School District
6820 Market Street
Russell, PA 16345-3406

To IU-5 at:

Executive Director
Northwest Tri-County Intermediate Unit 5
252 Waterford Street
Edinboro, PA 16412

13. INVALID PROVISION. In the event that any portion of this Agreement shall be determined to be invalid or unenforceable, the remainder of this Agreement shall be deemed to continue to be binding upon the parties hereto in the same manner as if the invalid or unenforceable provision were not a part of this Agreement unless the invalidity or unenforceability of such provisions destroys the basic purposes and provisions of this agreement.

14. ASSIGNMENT. This Agreement shall not be assigned in whole or in part by either party hereto without the express written consent of the other party; notwithstanding, this Agreement shall inure to the benefit of The District and IU-5, their respective successors and assigns.

15. NON-WAIVER. No waiver of any term or condition of this Agreement by either party shall be deemed a continuing or further waiver of the same term or condition or a waiver of any other term or condition of this Agreement.

16. GOVERNING LAW. This Agreement is made and entered into in the Commonwealth of Pennsylvania and shall be governed and construed in accordance with the laws of Pennsylvania.

17. AMENDMENT. This Agreement may be amended at any time by a written agreement signed by the parties.

18. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement among the parties and contains all of the agreements among the parties with respect to the subject matter hereof and supersedes any and all other agreements, either oral or in writing, among the parties hereto with respect to the subject matter hereof.

19. AUTHORIZATION FOR AGREEMENT. The execution and performance of this Agreement by the District and IU-5 have been duly authorized by all necessary operating agreements, resolutions, or the District and IU-5 action, and this Agreement constitutes the valid and enforceable obligations of the District and IU-5 in accordance with its terms.

20. HEADINGS. The headings to the various sections of this Agreement have been inserted for convenience only and shall not modify, define, limit or expand express provision of this Agreement.

21. COUNTERPARTS. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement is executed the day and year first above written.

**NORTHWEST TRI-COUNTY
INTERMEDIATE UNIT NO. 5**

By _____
Executive Director

Warren County School District

By: _____
Board President/Superintendent/CEO

Document #479845, v31

ATTEST: _____
Board Secretary