

**CORPORATE INTEGRITY AGREEMENT  
BETWEEN THE  
OFFICE OF INSPECTOR GENERAL  
OF THE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
AND  
WALGREEN CO.**

**I. PREAMBLE**

Walgreen Co. (Walgreens)<sup>1</sup>, on behalf of itself, its subsidiaries, and the Walgreens Affiliates (as defined herein) hereby enters into this Corporate Integrity Agreement (CIA) with the Office of Inspector General (OIG) of the United States Department of Health and Human Services (HHS) to promote compliance with the statutes, regulations, and written directives of Medicare, Medicaid, and all other Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)) (Federal health care program requirements) in its retail and specialty pharmacy operations. Contemporaneously with this CIA, Walgreens is entering into Settlement Agreements with the United States.

Walgreens represents that prior to the Effective Date, it established a compliance program that addresses all seven elements of an effective compliance program and that is designed to address compliance with Federal health care program and other requirements (Compliance Program). Walgreens shall continue the Compliance Program throughout the term of the CIA and shall do so in accordance with the terms set forth below. Walgreens may modify the Compliance Program, as appropriate. However, at a minimum, Walgreens shall ensure that during the term of the CIA, it shall maintain a compliance program to comply with the obligations set forth in this CIA.

**II. TERM AND SCOPE OF THE CIA**

A. The period of the compliance obligations assumed by Walgreens under this CIA shall be five years from the effective date of this CIA. The “Effective Date” shall be the date on which the final signatory of this CIA executes this CIA. Each one-year

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<sup>1</sup> Excluding Eager Park Pharmacy and Health Services, LLC and the following entities that do business as Alliance Rx Walgreens Prime: Walgreens Specialty Pharmacy, LLC; Cystic Fibrosis Services, LLC; Prime Therapeutics Specialty Pharmacy LLC; and Walgreens Mail Service, LLC.

period, beginning with the one-year period following the Effective Date, shall be referred to as a “Reporting Period.”

B. Sections VII, X, and XI shall expire no later than 120 days after OIG’s receipt of: (1) Walgreens’ final Annual Report or (2) any additional materials submitted by Walgreens pursuant to OIG’s request, whichever is later.

C. For purposes of this CIA, the term “Covered Persons” includes:

1. all owners of Walgreens and any Walgreens Affiliate who are natural persons (other than shareholders who: (a) have an ownership interest of less than 5% and (b) acquired the ownership interest through public trading).
2. all officers and directors of Walgreens; and, all officers and directors of any Walgreens Affiliate who engage in Covered Functions;
3. all employees of Walgreens or any Walgreens Affiliate who audit or are engaged in Covered Functions, as defined below in Section II.D.;
4. all Walgreens and Walgreens Affiliate contractors, subcontractors, agents, and other persons, excluding the Independent Review Organization, who audit or perform any of the Covered Functions.

Notwithstanding the above, the term “Covered Persons” does not include part-time or per diem employees, contractors, subcontractors, agents, and other persons who are not reasonably expected to work for Walgreens or any Walgreens Affiliate more than 160 hours during a Reporting Period except that any such individuals shall become “Covered Persons” at the point when they work more than 160 hours for Walgreens or a Walgreens Affiliate during a Reporting Period.

D. “Covered Functions” shall mean performance or supervision of any of the following activities on behalf of Walgreens or a Walgreens Affiliate: (1) furnishing prescription drugs or other pharmaceutical items or services reimbursed by Federal health care programs; or (2) preparing or submitting claims for prescription drugs or other pharmaceutical items or services reimbursed by Federal health care programs.

E. “Walgreens Affiliate” shall mean Walgreens Boots Alliance, Inc., and its wholly-owned subsidiary Walgreen of US Virgin Islands, LLC, so long as they engage in

Covered Functions, and any entity other than Walgreens that is owned or controlled, directly or indirectly, by Walgreens Boots Alliance, Inc. and engages in Covered Functions. Obligations set forth in Section III below shall apply, respectively, to the Covered Persons and the Covered Functions of the Walgreens Affiliates in the same manner as they apply to Walgreens. In addition, the requirements of Sections V.C., VI, VII, VIII, and X shall apply to both Walgreens and any Walgreens Affiliate(s).

### **III. CORPORATE INTEGRITY OBLIGATIONS**

Walgreens shall establish and maintain a Compliance Program that includes the following elements:

#### **A. Compliance and Ethics Officer and Committee, Board of Directors, and Management Compliance Obligations**

1. *Compliance and Ethics Officer.* Within 90 days after the Effective Date, Walgreen Co. shall appoint a Compliance and Ethics Officer (the Compliance and Ethics Officer) and shall maintain a Compliance and Ethics Officer for the term of the CIA. The Compliance and Ethics Officer is an employee and a member of senior management of Walgreens, shall report directly to the President of Operations for Walgreens and to the Walgreens Boots Alliance, Inc. Global Chief Compliance and Ethics Officer, and shall not be, or be subordinate to, the Walgreen Co. General Counsel or Chief Financial Officer or have any responsibilities that involve acting in any capacity as legal counsel or supervising legal counsel functions for Walgreens. The Compliance and Ethics Officer shall be responsible for, without limitation:

- a. developing and implementing policies, procedures, and practices designed to ensure compliance with the requirements set forth in this CIA and with Federal health care program requirements;
- b. making periodic (at least quarterly) reports regarding compliance matters directly to the Audit Committee of the Board of Directors of Walgreens Boots Alliance, Inc. (the Audit Committee of the Board) and shall be authorized to report on such matters to the Audit Committee of the Board at any time. The Walgreens Boots Alliance Global Chief Compliance and Ethics Officer may make and shall be authorized to make certain of the reports regarding compliance matters to the Audit Committee of the Board.

Written documentation of all reports to the Audit Committee of the Board made by the Compliance and Ethics Officer or the Walgreens Boots Alliance Global Chief Compliance and Ethics Officer shall be made available to OIG upon request; and

- c. monitoring the day-to-day compliance activities engaged in by Walgreens as well as any reporting obligations created under this CIA.

Any noncompliance job responsibilities of the Compliance and Ethics Officer shall be limited and must not interfere with the Compliance and Ethics Officer's ability to perform the duties outlined in this CIA.

Walgreens shall report to OIG, in writing, any changes in the identity of the Compliance and Ethics Officer, or any actions or changes that would affect the Compliance and Ethics Officer's ability to perform the duties necessary to meet the obligations in this CIA, within five days after such a change.

2. *Compliance Committee.* Within 90 days after the Effective Date, Walgreens shall appoint a Compliance Committee. The Compliance Committee shall, at a minimum, include the Compliance and Ethics Officer and other members of senior management necessary to meet the requirements of this CIA (e.g., senior executives of relevant departments, such as billing, clinical, human resources, audit, and operations). The Compliance and Ethics Officer shall chair the Compliance Committee and the Committee shall support the Compliance and Ethics Officer in fulfilling his/her responsibilities (e.g., shall assist in the analysis of Walgreens' risk areas and shall oversee monitoring of internal and external audits and investigations). The Compliance Committee shall meet at least quarterly. The minutes of the Compliance Committee meetings shall be made available to OIG upon request.

Walgreens shall report to OIG, in writing, any actions or changes that would affect the Compliance Committee's ability to perform the duties necessary to meet the obligations in this CIA, within 15 days after such a change.

3. *Board of Directors Compliance Obligations.* The Audit Committee of the Board shall be responsible for the review and oversight of matters related to compliance with Federal health care program requirements and the obligations of this CIA. The Audit Committee of the Board must include independent (i.e., non-executive) members.

The Audit Committee of the Board shall, at a minimum, be responsible for the following:

- a. meeting at least quarterly to review and oversee Walgreens' compliance program, including but not limited to the performance of the Compliance and Ethics Officer and Compliance Committee;
- b. submitting to OIG a description of the documents and other materials it reviewed, as well as any additional steps taken, such as the engagement of an independent advisor or other third party resources, in its oversight of the Walgreens compliance program and in support of making the resolution below during each Reporting Period; and
- c. for each Reporting Period of the CIA, adopting a resolution, signed by each member of the Audit Committee of the Board summarizing its review and oversight of Walgreens' compliance with Federal health care program requirements and the obligations of this CIA.

At minimum, the resolution shall include the following language:

“The Audit Committee of the Board of Directors of Walgreens Boots Alliance, Inc. has made a reasonable inquiry into the operations of Walgreens' Compliance Program, including the performance of the Compliance and Ethics Officer and the Compliance Committee. Based on its inquiry and review, the Audit Committee of the Board has concluded that, to the best of its knowledge, Walgreens has implemented an effective Compliance Program to meet Federal health care program requirements and the obligations of the CIA.”

If the Audit Committee of the Board is unable to provide such a conclusion in the resolution, the Audit Committee of the Board shall include in the resolution a written explanation of the reasons why it is unable to provide the conclusion and the steps it is taking to implement an effective Compliance Program at Walgreens.

Walgreens shall report to OIG, in writing, any changes in the composition of the Audit Committee of the Board, or any actions or changes that would affect the Audit

Committee of the Board's ability to perform the duties necessary to meet the obligations in this CIA, within 15 days after such a change.

4. *Management Certifications.* In addition to the responsibilities set forth in this CIA for all Covered Persons, certain Walgreens employees (Certifying Employees) are expected to monitor and oversee activities within their areas of authority and shall annually certify that the applicable Walgreens department is in compliance with applicable Federal health care program requirements and the obligations of this CIA. These Certifying Employees shall include, at a minimum, the following: Senior Vice President, Pharmacy; Senior Vice President, Pharmacy and Retail Operations; Senior Vice President, Operations; Senior Vice President, Chief Financial Officer Retail Pharmacy; and Senior Vice President, Chief Human Resources Officer. For each Reporting Period, each Certifying Employee shall sign a certification that states:

“I have been trained on and understand the compliance requirements and responsibilities as they relate to [insert name of department], an area under my supervision. My job responsibilities include ensuring compliance with regard to the [insert name of department] with all applicable Federal health care program requirements, obligations of the Corporate Integrity Agreement, and Walgreens policies, and I have taken steps to promote such compliance. To the best of my knowledge, the [insert name of department] of Walgreens is in compliance with all applicable Federal health care program requirements and the obligations of the Corporate Integrity Agreement. I understand that this certification is being provided to and relied upon by the United States.”

If any Certifying Employee is unable to provide such a certification, the Certifying Employee shall provide a written explanation of the reasons why he or she is unable to provide the certification outlined above.

Within 90 days after the Effective Date, Walgreens shall develop and implement a written process for Certifying Employees to follow for the purpose of completing the certification required by this section (e.g., reports that must be reviewed, assessments that must be completed, sub-certifications that must be obtained, etc. prior to the Certifying Employee making the required certification).

#### B. Written Standards

Within 120 days after the Effective Date, Walgreens shall develop and implement written policies and procedures regarding the operation of its compliance program,

including the compliance program requirements outlined in this CIA and Walgreens' compliance with Federal health care program requirements (Policies and Procedures). Throughout the term of this CIA, Walgreens shall enforce its Policies and Procedures and shall make compliance with its Policies and Procedures an element of evaluating the performance of all employees. The Policies and Procedures shall be made available to all Covered Persons.

At least annually (and more frequently, if appropriate), Walgreens shall assess and update, as necessary, the Policies and Procedures. Any new or revised Policies and Procedures shall be made available to all Covered Persons.

All Policies and Procedures shall be made available to OIG upon request.

C. Training and Education

1. *Covered Persons Training.* Within 90 days after the Effective Date, Walgreens shall develop a written plan (Training Plan) that outlines the steps Walgreens will take to ensure that all Covered Persons receive at least annual training regarding Walgreens' CIA requirements and Compliance Program and the applicable Federal health care program requirements, including requirements relating to Covered Functions, and the Anti-Kickback Statute. The Training Plan shall include information regarding the following: training topics, categories of Covered Persons required to attend each training session, length of the training session(s), schedule for training, and format of the training. Walgreens shall furnish training to its Covered Persons pursuant to the Training Plan during each Reporting Period.

2. *Board Member Training.* Within 90 days after the Effective Date, each member of the Audit Committee of the Board shall receive at least two hours of training. This training shall address the corporate governance responsibilities of board members, and the responsibilities of board members with respect to review and oversight of the Compliance Program. Specifically, the training shall address the unique responsibilities of health care Board members, including the risks, oversight areas, and strategic approaches to conducting oversight of a health care entity. This training may be conducted by an outside compliance expert hired by the Audit Committee of the Board and should include a discussion of the OIG's guidance on Board member responsibilities.

New members of the Audit Committee of the Board shall receive the Board Member Training described above within 30 days after becoming a member or within 90 days after the Effective Date, whichever is later. In addition to the Audit Committee of

the Board, the provisions of this Section III.C.2 shall also apply to any other directors who are Covered Persons, as defined in Section II.C.2.

3. *Training Records.* Walgreens shall make available to OIG, upon request, training materials and records verifying that Covered Persons and the individuals who must take the Board Member Training have timely received the training required under this section.

D. Review Procedures

1. *General Description*

- a. *Engagement of Independent Review Organization.* Within 90 days after the Effective Date, Walgreens shall engage an entity (or entities), such as an accounting, auditing, or consulting firm (hereinafter “Independent Review Organization” or “IRO”), to perform the reviews listed in this Section III.D. The applicable requirements relating to the IRO are outlined in Appendix A to this CIA, which is incorporated by reference.
- b. *Retention of Records.* The IRO and Walgreens shall retain and make available to OIG, upon request, all work papers, supporting documentation, correspondence, and draft reports (those exchanged between the IRO and Walgreens) related to the reviews.
- c. *Access to Records and Personnel.* Walgreens shall ensure that the IRO has access to all records and personnel necessary to complete the reviews listed in this Section III.D and that all records furnished to the IRO are accurate and complete.

2. *Claims Review.* The IRO shall review retail and specialty pharmacy claims submitted by Walgreens and reimbursed by the Medicare and Medicaid programs, to determine whether (1) the retail and specialty pharmacy claims are consistent with the underlying prescription documentation maintained by Walgreens, (2) the prescription drugs furnished by Walgreens were dispensed according to a valid prescription, (3) Walgreens maintained appropriate documentation of a valid prescription for each drug dispensed (including any refills), (4) any prior authorization required by the payor was obtained, and (5) the retail and specialty pharmacy claims were correctly billed and



reimbursed (Claims Review) and shall prepare a Claims Review Report, as outlined in Appendix B to this CIA, which is incorporated by reference.

3. *Independence and Objectivity Certification.* The IRO shall include in its report(s) to Walgreens a certification that the IRO has (a) evaluated its professional independence and objectivity with respect to the reviews required under this Section III.D and (b) concluded that it is, in fact, independent and objective, in accordance with the requirements specified in Appendix A to this CIA. The IRO's certification shall include a summary of all current and prior engagements between Walgreens and the IRO.

E. Risk Assessment and Internal Review Process

Within 90 days after the Effective Date, Walgreens shall develop and implement a centralized annual risk assessment and internal review process to identify and address compliance risks associated with Walgreens' participation in the Federal health care programs in connection with the submission of claims for prescription drugs and other pharmaceutical items and services furnished to Medicare and Medicaid program beneficiaries. The annual risk assessment and internal review process is led by Walgreens Boots Alliance, Inc. Internal Audit Department working closely with compliance, legal, and department leaders to: (1) identify and prioritize risks, (2) develop and implement internal audit work plans related to the identified risk areas, (3) develop corrective action plans, as appropriate, in response to the results of any internal audits performed, and (4) track the implementation of the corrective action plans, as appropriate, in order to assess the effectiveness of such plans. Walgreens shall maintain the risk assessment and internal review process for the term of the CIA.

F. Disclosure Program

Within 90 days after the Effective Date, Walgreens shall establish a Disclosure Program that includes a mechanism (e.g., a toll-free compliance telephone line) to enable individuals to disclose, to the Compliance and Ethics Officer or some other person who is not in the disclosing individual's chain of command, any identified issues or questions associated with Walgreens' policies, conduct, practices, or procedures with respect to a Federal health care program believed by the individual to be a potential violation of criminal, civil, or administrative law. Walgreens shall appropriately publicize the existence of the disclosure mechanism (e.g., via periodic e-mails to employees or by posting the information in prominent common areas).

The Disclosure Program shall emphasize a nonretribution, nonretaliation policy and shall include a reporting mechanism for anonymous communications for which

appropriate confidentiality shall be maintained. The Disclosure Program also shall include a requirement that all of Walgreens' Covered Persons shall be expected to report suspected violations of any Federal health care program requirements to the Compliance and Ethics Officer or other appropriate individual designated by Walgreens. Upon receipt of a disclosure, the Compliance and Ethics Officer (or designee) shall gather all relevant information from the disclosing individual. The Compliance and Ethics Officer (or designee) shall make a preliminary, good faith inquiry into the allegations set forth in every disclosure to ensure that he or she has obtained all of the information necessary to determine whether a further review should be conducted. For any disclosure that is sufficiently specific so that it reasonably: (1) permits a determination of the appropriateness of the alleged improper practice; and (2) provides an opportunity for taking corrective action, Walgreens shall conduct an internal review of the allegations set forth in the disclosure and ensure that proper follow-up is conducted.

The Compliance and Ethics Officer (or designee) shall maintain a disclosure log and shall record each disclosure in the disclosure log within two business days of receipt of the disclosure. The disclosure log shall include a summary of each disclosure received (whether anonymous or not), the status of the respective internal reviews, and any corrective action taken in response to the internal reviews.

G. Ineligible Persons

1. *Definitions.* For purposes of this CIA:
  - a. an "Ineligible Person" shall include an individual or entity who:
    - i. is currently excluded from participation in any Federal health care program; or
    - ii. has been convicted of a criminal offense that falls within the scope of 42 U.S.C. § 1320a-7(a), but has not yet been excluded.
  - b. "Exclusion List" means the HHS/OIG List of Excluded Individuals/Entities (LEIE) (available through the Internet at <http://www.oig.hhs.gov>).

2. *Screening Requirements.* Walgreens shall ensure that all prospective and current Covered Persons are not Ineligible Persons, by implementing the following screening requirements.

- a. Walgreens shall screen all prospective Covered Persons against the Exclusion List prior to engaging their services and, as part of the hiring or contracting process, shall require such Covered Persons to disclose whether they are Ineligible Persons.
- b. Walgreens shall screen all current Covered Persons against the Exclusion List within 90 days after the Effective Date and on a monthly basis thereafter.
- c. Walgreens shall implement a policy requiring all Covered Persons to disclose immediately if they become an Ineligible Person.

Nothing in this Section III.G affects Walgreens' responsibility to refrain from (and liability for) billing Federal health care programs for items or services furnished, ordered, or prescribed by an excluded person. Walgreens understands that items or services furnished, ordered, or prescribed by excluded persons are not payable by Federal health care programs and that Walgreens may be liable for overpayments and/or criminal, civil, and administrative sanctions for employing or contracting with an excluded person regardless of whether Walgreens meets the requirements of Section III.G.

3. *Removal Requirement.* If Walgreens has actual notice that a Covered Person has become an Ineligible Person, Walgreens shall remove such Covered Person from responsibility for, or involvement with, Walgreens' business operations related to the Federal health care program(s) from which such Covered Person has been excluded and shall remove such Covered Person from any position for which the Covered Person's compensation or the items or services furnished, ordered, or prescribed by the Covered Person are paid in whole or part, directly or indirectly, by any Federal health care program(s) from which the Covered Person has been excluded at least until such time as the Covered Person is reinstated into participation in such Federal health care program(s).

4. *Pending Charges and Proposed Exclusions.* If Walgreens has actual notice that a Covered Person is charged with a criminal offense that falls within the scope of 42 U.S.C. §§ 1320a-7(a), 1320a-7(b)(1)-(3), or is proposed for exclusion during the

Covered Person's employment or contract term, Walgreens shall take all appropriate actions to ensure that the responsibilities of that Covered Person have not and shall not adversely affect the quality of care rendered to any beneficiary or the accuracy of any claims submitted to any Federal health care program.

#### H. Notification of Government Investigation or Legal Proceeding

Within 30 days after discovery, Walgreens shall notify OIG, in writing, of any ongoing investigation or legal proceeding known to Walgreens conducted or brought by a governmental entity or its agents involving an allegation that Walgreens has committed a crime or has engaged in fraudulent activities. This notification shall include a description of the allegation, the identity of the investigating or prosecuting agency, and the status of such investigation or legal proceeding. Walgreens also shall provide written notice to OIG within 30 days after the resolution of the matter and a description of the findings and/or results of the investigation or proceeding, if any.

#### I. Overpayments

1. *Definition of Overpayment.* An "Overpayment" means any funds that a Walgreens retail or specialty pharmacy receives or retains under any Federal health care program to which Walgreens, after applicable reconciliation, is not entitled under such Federal health care program.

2. *Overpayment Policies and Procedures.* Within 90 days after the Effective Date, Walgreens shall develop and implement written policies and procedures regarding the identification, quantification, and repayment of Overpayments received from any Federal health care program.

#### J. Reportable Events

1. *Definition of Reportable Event.* For purposes of this CIA, a "Reportable Event" means anything that involves:

- a. a substantial Overpayment;
- b. a matter that a reasonable person would consider a probable violation of criminal, civil, or administrative laws applicable to any Federal health care program for which penalties or exclusion may be authorized;

- c. the employment of or contracting with a Covered Person who is an Ineligible Person as defined by Section III.G.1.a; or
- d. the filing of a bankruptcy petition by Walgreens.

A Reportable Event may be the result of an isolated event or a series of occurrences.

2. *Reporting of Reportable Events.* If Walgreens determines (after a reasonable opportunity to conduct an appropriate review or investigation of the allegations) through any means that there is a Reportable Event, Walgreens shall notify OIG, in writing, within 30 days after making the determination that the Reportable Event exists.

3. *Reportable Events under Section III.J.1.a. and III.J.1.b.* For Reportable Events under Section III.J.1.a and b, the report to OIG shall include:

- a. a complete description of all details relevant to the Reportable Event, including, at a minimum, the types of claims, transactions or other conduct giving rise to the Reportable Event; the period during which the conduct occurred; and the names of individuals and entities believed to be implicated, including an explanation of their roles in the Reportable Event;
- b. a statement of the Federal criminal, civil or administrative laws that are probably violated by the Reportable Event, if any;
- c. the Federal health care programs affected by the Reportable Event;
- d. a description of the steps taken by Walgreens to identify and quantify any Overpayments; and
- e. a description of Walgreens' actions taken to correct the Reportable Event and prevent it from recurring.

If the Reportable Event involves an Overpayment, within 60 days of identification of the Overpayment, Walgreens shall repay the Overpayment, in accordance with the requirements of 42 U.S.C. § 1320a-7k(d) and any applicable regulations and Centers for

Medicare and Medicaid Services (CMS) guidance and provide OIG with a copy of the notification and repayment.

4. *Reportable Events under Section III.J.1.c.* For Reportable Events under Section III.J.1.c, the report to OIG shall include:

- a. the identity of the Ineligible Person and the job duties performed by that individual;
- b. the dates of the Ineligible Person's employment or contractual relationship;
- c. a description of the Exclusion List screening that Walgreens completed before and/or during the Ineligible Person's employment or contract and any flaw or breakdown in the screening process that led to the hiring or contracting with the Ineligible Person;
- d. a description of how the Ineligible Person was identified; and
- e. a description of any corrective action implemented to prevent future employment or contracting with an Ineligible Person.

5. *Reportable Events under Section III.J.1.d.* For Reportable Events under Section III.J.1.d, the report to OIG shall include documentation of the bankruptcy filing and a description of any Federal health care program requirements implicated.

6. *Reportable Events Involving the Stark Law.* Notwithstanding the reporting requirements outlined above, any Reportable Event that involves solely a probable violation of section 1877 of the Social Security Act, 42 U.S.C. §1395nn (the Stark Law) should be submitted by Walgreens to CMS through the self-referral disclosure protocol (SRDP), with a copy to the OIG. If Walgreens identifies a probable violation of the Stark Law and repays the applicable Overpayment directly to the CMS contractor, then Walgreens is not required by this Section III.J to submit the Reportable Event to CMS through the SRDP.

#### **IV. SUCCESSOR LIABILITY**

In the event that, after the Effective Date, Walgreens proposes to (a) sell any or all of its business, business units, or locations (whether through a sale of assets, sale of

stock, or other type of transaction) that perform Covered Functions the CIA shall be binding on the purchaser of any business, business unit, or location and any new business, business unit, or location (and all Covered Persons at each new business, business unit, or location) shall be subject to the applicable requirements of this CIA, unless otherwise determined and agreed to in writing by OIG. Walgreens shall give notice of such sale or purchase to OIG within 30 days following the closing of the transaction.

If, in advance of a proposed sale or a proposed purchase as described above, Walgreens wishes to obtain a determination by OIG that the proposed purchaser or the proposed acquisition will not be subject to the requirements of the CIA, Walgreens must notify OIG in writing of the proposed sale or purchase at least 30 days in advance. This notification shall include a description of the business, business unit, or location to be sold or purchased, a brief description of the terms of the transaction and, in the case of a proposed sale, the name and contact information of the prospective purchaser.

## **V. IMPLEMENTATION AND ANNUAL REPORTS**

### **A. Implementation Report**

Within 150 days after the Effective Date, Walgreens shall submit a written report to OIG summarizing the status of its implementation of the requirements of this CIA (Implementation Report). The Implementation Report shall, at a minimum, include:

1. the name, address, phone number, and position description of the Compliance and Ethics Officer required by Section III.A, and a summary of other noncompliance job responsibilities the Compliance and Ethics Officer may have;
2. the names and positions of the members of the Compliance Committee required by Section III.A;
3. the names of the Audit Committee of the Board members who are responsible for satisfying the Board of Directors compliance obligations described in Section III.A.3;
4. the names and positions of the Certifying Employees required by Section III.A.4, and a copy of the written process for completing the certification required by Section III.A.4;
5. a list of the Policies and Procedures required by Section III.B;

6. the Training Plan required by Section III.C.1 and a description of the Board Member Training required by Section III.C.2 (including a summary of the topics covered, the length of the training, and when the training was provided);

7. the following information regarding the IRO(s): (a) identity, address, and phone number; (b) a copy of the engagement letter; (c) information to demonstrate that the IRO has the qualifications outlined in Appendix A to this CIA; and (d) a certification from the IRO regarding its professional independence and objectivity with respect to Walgreens;

8. a description of the risk assessment and internal review process required by Section III.E;

9. a description of the Disclosure Program required by Section III.F;

10. a description of the Ineligible Persons screening and removal process required by Section III.G;

11. a copy of Walgreens' policies and procedures regarding the identification, quantification and repayment of Overpayments required by Section III.I;

12. a description of Walgreens' corporate structure, including identification of any parent and sister companies, subsidiaries, and their respective lines of business;

13. a list of all of Walgreens' locations that perform Covered Functions (including locations and mailing addresses), the corresponding name under which each location is doing business, and the location's Medicare and state Medicaid program provider number and/or supplier number(s); and

14. the certifications required by Section V.C.

#### B. Annual Reports

Walgreens shall submit to OIG a written report on its compliance with the CIA requirements for each of the five Reporting Periods (Annual Report). Each Annual Report shall include, at a minimum, the following information:

1. any change in the identity, position description, or other noncompliance job responsibilities of the Compliance and Ethics Officer; a current list of



the Compliance Committee members; a current list of the Audit Committee of the Board members who are responsible for satisfying the Board of Directors compliance obligations; a current list of the Certifying Employees; a description of any changes to the written process applicable to Certifying Employees and the reasons for the changes; and, the identification of any changes made during the Reporting Period to the Compliance Committee, Audit Committee of the Board, and Certifying Employees;

2. the dates of each report made by the Compliance and Ethics Officer and/or the Global Chief Compliance and Ethics Officer regarding Walgreens compliance matters to the Audit Committee of the Board (written documentation of such reports shall be made available to OIG upon request);

3. the Audit Committee of the Board resolution required by Section III.A.3 and a description of the documents and other materials reviewed by the Audit Committee of the Board, any additional steps taken, in its oversight of the compliance program and in support of making the resolution;

4. a list of any new or revised Policies and Procedures developed during the Reporting Period;

5. a description of any changes to Walgreens' Training Plan developed pursuant to Section III.C, and a summary of any Board Member Training provided during the Reporting Period;

6. a complete copy of all reports prepared pursuant to Section III.D and Walgreens' response to the reports, along with corrective action plan(s) related to any issues raised by the reports;

7. a certification from the IRO regarding its professional independence and objectivity with respect to Walgreens;

8. a description of any changes to the risk assessment and internal review process required by Section III.E, including the reasons for such changes;

9. a summary of the following components of the risk assessment and internal review process during the Reporting Period: (a) work plans developed, (b) internal audits performed, (c) any corrective action plans developed in response to internal audits, and (d) steps taken to track the implementation of any corrective action plans. Copies of any work plans, internal audit reports, and corrective action plans shall be made available to OIG upon request;

10. a summary of the disclosures in the disclosure log required by Section III.F that relate to Federal health care programs, including at least the following information: (a) a description of the disclosure, (b) the date the disclosure was received, (c) the resolution of the disclosure, and (d) the date the disclosure was resolved (if applicable). The complete disclosure log shall be made available to OIG upon request;
11. a description of any changes to the Ineligible Persons screening and removal process required by Section III.G, including the reasons for such changes;
12. a summary describing any ongoing investigation or legal proceeding required to have been reported pursuant to Section III.H. The summary shall include a description of the allegation, the identity of the investigating or prosecuting agency, and the status of such investigation or legal proceeding;
13. a description of any changes to the Overpayment policies and procedures required by Section III.I, including the reasons for such changes;
14. a summary of Reportable Events (as defined in Section III.J) identified during the Reporting Period;
15. a summary listing of any audits conducted during the applicable Reporting Period by any Medicare or state Medicaid program contractor or any government entity or contractor, involving a review of Federal health care program retail or specialty pharmacy claims, and Walgreens' response and any corrective action plan (including information regarding any Federal health care program refunds) relating to the audit findings;
16. a description of all changes to the most recently provided list of Walgreens' locations as required by Section V.A.13;
17. a description of any changes to Walgreens' corporate structure of Walgreens entities that engage in Covered Functions, including any parent and sister companies, subsidiaries, and their respective lines of business; and
18. the certifications required by Section V.C.

The first Annual Report shall be received by OIG no later than 60 days after the end of the first Reporting Period. Subsequent Annual Reports shall be received by OIG no later than the anniversary date of the due date of the first Annual Report.

C. Certifications

1. *Certifying Employees.* In each Annual Report, Walgreens shall include the certifications of Certifying Employees required by Section III.A.4;

2. *Compliance and Ethics Officer and President of Operations of Walgreens.* The Implementation Report and each Annual Report shall include a certification by the Compliance and Ethics Officer and the President of Operations of Walgreens that:

- a. to the best of his or her knowledge, except as otherwise described in the report, Walgreens has implemented and is in compliance with all of the requirements of this CIA;
- b. he or she has reviewed the report and has made reasonable inquiry regarding its content and believes that the information in the report is accurate and truthful; and
- c. he or she understands that the certification is being provided to and relied upon by the United States

3. *Chief Financial Officer.* The first Annual Report shall include a certification by the Chief Financial Officer that, to the best of his or her knowledge, Walgreens has complied with its obligations under the Settlement Agreements: (a) not to resubmit to any Federal health care program payors any previously denied claims related to the Covered Conduct addressed in the Settlement Agreements, and not to appeal any such denials of claims; (b) not to charge to or otherwise seek payment from federal or state payors for unallowable costs (as defined in the Settlement Agreements); and (c) to identify and adjust any past charges or claims for unallowable costs; and (d) he or she understands that the certification is being provided to and relied upon by the United States.

D. Designation of Information

Walgreens shall clearly identify any portions of its submissions that it believes are trade secrets, or information that is commercial or financial and privileged or confidential, and therefore potentially exempt from disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Walgreens shall refrain from identifying any information as exempt from disclosure if that information does not meet the criteria for exemption from disclosure under FOIA.

## **VI. NOTIFICATIONS AND SUBMISSION OF REPORTS**

Unless otherwise stated in writing after the Effective Date, all notifications and reports required under this CIA shall be submitted to the following entities:

### OIG:

Administrative and Civil Remedies Branch  
Office of Counsel to the Inspector General  
Office of Inspector General  
U.S. Department of Health and Human Services  
Cohen Building, Room 5527  
330 Independence Avenue, S.W.  
Washington, DC 20201  
Telephone: 202.619.2078  
Facsimile: 202.205.0604

### Walgreens:

Walgreens Compliance & Ethics Officer  
Stacia Borrello  
Vice President, Compliance Retail Pharmacy U.S.A.  
Walgreen Co.  
304 Wilmot Road  
MS #3211  
Deerfield, Illinois 60015  
(847) 315-4614  
(847) 444-9302

Unless otherwise specified, all notifications and reports required by this CIA may be made by electronic mail, overnight mail, hand delivery, or other means, provided that there is proof that such notification was received. Upon request by OIG, Walgreens may be required to provide OIG with an additional copy of each notification or report required by this CIA in OIG's requested format (electronic or paper).

## **VII. OIG INSPECTION, AUDIT, AND REVIEW RIGHTS**

In addition to any other rights OIG may have by statute, regulation, or contract, OIG or its duly authorized representative(s) may conduct interviews, examine and/or

request copies of or copy Walgreens' books, records, and other documents and supporting materials, and conduct on-site reviews of any of Walgreens' locations, for the purpose of verifying and evaluating: (a) Walgreens' compliance with the terms of this CIA and (b) Walgreens' compliance with the requirements of the Federal health care programs. The documentation described above shall be made available by Walgreens to OIG or its duly authorized representative(s) at all reasonable times for inspection, audit, and/or reproduction. Furthermore, for purposes of this provision, OIG or its duly authorized representative(s) may interview any of Walgreens' owners, employees, contractors, and directors who consent to be interviewed at the individual's place of business during normal business hours or at such other place and time as may be mutually agreed upon between the individual and OIG. Walgreens shall assist OIG or its duly authorized representative(s) in contacting and arranging interviews with such individuals upon OIG's request. Walgreens' owners, employees, contractors, and directors may elect to be interviewed with or without a representative of Walgreens present.

#### **VIII. DOCUMENT AND RECORD RETENTION**

Walgreens shall maintain for inspection all documents and records relating to reimbursement from the Federal health care programs and to compliance with this CIA for six years (or longer if otherwise required by law) from the Effective Date.

#### **IX. DISCLOSURES**

Consistent with HHS's FOIA procedures, set forth in 45 C.F.R. Part 5, OIG shall make a reasonable effort to notify Walgreens prior to any release by OIG of information submitted by Walgreens pursuant to its obligations under this CIA and identified upon submission by Walgreens as trade secrets, or information that is commercial or financial and privileged or confidential, under the FOIA rules. With respect to such releases, Walgreens shall have the rights set forth at 45 C.F.R. § 5.42(a).

#### **X. BREACH AND DEFAULT PROVISIONS**

Walgreens is expected to fully and timely comply with all of its CIA obligations.

##### **A. Stipulated Penalties for Failure to Comply with Certain Obligations**

As a contractual remedy, Walgreens and OIG hereby agree that failure to comply with certain obligations as set forth in this CIA may lead to the imposition of the

following monetary penalties (hereinafter referred to as “Stipulated Penalties”) in accordance with the following provisions.

1. A Stipulated Penalty of \$2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day Walgreens fails to establish, implement or comply with any of the following obligations as described in Section III:

- a. a Compliance and Ethics Officer;
- b. a Compliance Committee;
- c. the Board of Directors compliance obligations, as required by Section III.A.3;
- d. the management certification obligations, and the development and implementation of a written process for Certifying Employees, as required by Section III.A.4;
- e. written Policies and Procedures;
- f. the development of a written training plan and the training and education of Covered Persons and Board Members;
- g. a risk assessment and internal review process;
- h. a Disclosure Program;
- i. Ineligible Persons screening and removal requirements;
- j. notification of Government investigations or legal proceedings;
- k. policies and procedures regarding the repayment of Overpayments; and
- l. reporting of Reportable Events.

2. A Stipulated Penalty of \$2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day Walgreens fails to engage and use an IRO, as required by Section III.D, Appendix A, or Appendix B.

3. A Stipulated Penalty of \$2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day Walgreens fails to submit a complete Implementation Report, Annual Report or any certification to OIG in accordance with the requirements of Section V by the deadlines for submission.

4. A Stipulated Penalty of \$2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day Walgreens fails to submit any Claims Review Report in accordance with the requirements of Section III.D and Appendix B or fails to repay any Overpayment identified by the IRO, as required by Appendix B.

5. A Stipulated Penalty of \$1,500 for each day Walgreens fails to grant access as required in Section VII (This Stipulated Penalty shall begin to accrue on the date Walgreens fails to grant access.).

6. A Stipulated Penalty of \$50,000 for each false certification submitted by or on behalf of Walgreens as part of its Implementation Report, any Annual Report, additional documentation to a report (as requested by OIG), or otherwise required by this CIA.

7. A Stipulated Penalty of \$2,500 for each day Walgreens fails to grant the IRO access to all records and personnel necessary to complete the reviews listed in Section III.D, and for each day Walgreens fails to furnish accurate and complete records to the IRO, as required by Section III.D and Appendix A.

8. A Stipulated Penalty of \$1,000 for each day Walgreens fails to comply fully and adequately with any obligation of this CIA. OIG shall provide notice to Walgreens stating the specific grounds for its determination that Walgreens has failed to comply fully and adequately with the CIA obligation(s) at issue and steps Walgreens shall take to comply with the CIA. (This Stipulated Penalty shall begin to accrue 10 days after the date Walgreens receives this notice from OIG of the failure to comply.) A Stipulated Penalty as described in this Subsection shall not be demanded for any violation for which OIG has sought a Stipulated Penalty under Subsections 1-7 of this Section.

#### B. Timely Written Requests for Extensions

Walgreens may, in advance of the due date, submit a timely written request for an extension of time to perform any act or file any notification or report required by this CIA. Notwithstanding any other provision in this Section, if OIG grants the timely written request with respect to an act, notification, or report, Stipulated Penalties for

failure to perform the act or file the notification or report shall not begin to accrue until one day after Walgreens fails to meet the revised deadline set by OIG. Notwithstanding any other provision in this Section, if OIG denies such a timely written request, Stipulated Penalties for failure to perform the act or file the notification or report shall not begin to accrue until three days after Walgreens receives OIG's written denial of such request or the original due date, whichever is later. A "timely written request" is defined as a request in writing received by OIG at least five days prior to the date by which any act is due to be performed or any notification or report is due to be filed.

C. Payment of Stipulated Penalties

1. *Demand Letter.* Upon a finding that Walgreens has failed to comply with any of the obligations described in Section X.A and after determining that Stipulated Penalties are appropriate, OIG shall notify Walgreens of: (a) Walgreens' failure to comply; and (b) OIG's exercise of its contractual right to demand payment of the Stipulated Penalties. (This notification shall be referred to as the "Demand Letter.")

2. *Response to Demand Letter.* Within 10 days after the receipt of the Demand Letter, Walgreens shall either: (a) cure the breach to OIG's satisfaction and pay the applicable Stipulated Penalties or (b) request a hearing before an HHS administrative law judge (ALJ) to dispute OIG's determination of noncompliance, pursuant to the agreed upon provisions set forth below in Section X.E. In the event Walgreens elects to request an ALJ hearing, the Stipulated Penalties shall continue to accrue until Walgreens cures, to OIG's satisfaction, the alleged breach in dispute. Failure to respond to the Demand Letter in one of these two manners within the allowed time period shall be considered a material breach of this CIA and shall be grounds for exclusion under Section X.D.

3. *Form of Payment.* Payment of the Stipulated Penalties shall be made by electronic funds transfer to an account specified by OIG in the Demand Letter.

4. *Independence from Material Breach Determination.* Except as set forth in Section X.D.1.c, these provisions for payment of Stipulated Penalties shall not affect or otherwise set a standard for OIG's decision that Walgreens has materially breached this CIA, which decision shall be made at OIG's discretion and shall be governed by the provisions in Section X.D, below.



D. Exclusion for Material Breach of this CIA

1. *Definition of Material Breach.* A material breach of this CIA means:

- a. repeated violations or a flagrant violation of any of the obligations under this CIA, including, but not limited to, the obligations addressed in Section X.A;
- b. a failure by Walgreens to report a Reportable Event, take corrective action, or make the appropriate refunds, as required in Section III.J;
- c. a failure to respond to a Demand Letter concerning the payment of Stipulated Penalties in accordance with Section X.C; or
- d. a failure to engage and use an IRO in accordance with Section III.D, Appendix A, or Appendix B.

2. *Notice of Material Breach and Intent to Exclude.* The parties agree that a material breach of this CIA by Walgreens constitutes an independent basis for Walgreens' exclusion from participation in the Federal health care programs. The length of the exclusion shall be in the OIG's discretion, but not more than five years per material breach. Upon a determination by OIG that Walgreens has materially breached this CIA and that exclusion is the appropriate remedy, OIG shall notify Walgreens of: (a) Walgreens' material breach; and (b) OIG's intent to exercise its contractual right to impose exclusion. (This notification shall be referred to as the "Notice of Material Breach and Intent to Exclude.")

3. *Opportunity to Cure.* Walgreens shall have 30 days from the date of receipt of the Notice of Material Breach and Intent to Exclude to demonstrate that:

- a. the alleged material breach has been cured; or
- b. the alleged material breach cannot be cured within the 30 day period, but that: (i) Walgreens has begun to take action to cure the material breach; (ii) Walgreens is pursuing such action with due diligence; and (iii) Walgreens has provided to OIG a reasonable timetable for curing the material breach.

4. *Exclusion Letter.* If, at the conclusion of the 30 day period, Walgreens fails to satisfy the requirements of Section X.D.3, OIG may exclude Walgreens from participation in the Federal health care programs. OIG shall notify Walgreens in writing of its determination to exclude Walgreens. (This letter shall be referred to as the “Exclusion Letter.”) Subject to the Dispute Resolution provisions in Section X.E, below, the exclusion shall go into effect 30 days after the date of Walgreens’ receipt of the Exclusion Letter. The exclusion shall have national effect. Reinstatement to program participation is not automatic. At the end of the period of exclusion, Walgreens may apply for reinstatement by submitting a written request for reinstatement in accordance with the provisions at 42 C.F.R. §§ 1001.3001-.3004.

E. Dispute Resolution

1. *Review Rights.* Upon OIG’s delivery to Walgreens of its Demand Letter or of its Exclusion Letter, and as an agreed-upon contractual remedy for the resolution of disputes arising under this CIA, Walgreens shall be afforded certain review rights comparable to the ones that are provided in 42 U.S.C. § 1320a-7(f) and 42 C.F.R. Part 1005 as if they applied to the Stipulated Penalties or exclusion sought pursuant to this CIA. Specifically, OIG’s determination to demand payment of Stipulated Penalties or to seek exclusion shall be subject to review by an HHS ALJ and, in the event of an appeal, the HHS Departmental Appeals Board (DAB), in a manner consistent with the provisions in 42 C.F.R. § 1005.2-1005.21. Notwithstanding the language in 42 C.F.R. § 1005.2(c), the request for a hearing involving Stipulated Penalties shall be made within 10 days after receipt of the Demand Letter and the request for a hearing involving exclusion shall be made within 25 days after receipt of the Exclusion Letter. The procedures relating to the filing of a request for a hearing can be found at <http://www.hhs.gov/dab/divisions/civil/procedures/divisionprocedures.html>

2. *Stipulated Penalties Review.* Notwithstanding any provision of Title 42 of the United States Code or Title 42 of the Code of Federal Regulations, the only issues in a proceeding for Stipulated Penalties under this CIA shall be: (a) whether Walgreens was in full and timely compliance with the obligations of this CIA for which OIG demands payment; and (b) the period of noncompliance. Walgreens shall have the burden of proving its full and timely compliance and the steps taken to cure the noncompliance, if any. OIG shall not have the right to appeal to the DAB an adverse ALJ decision related to Stipulated Penalties. If the ALJ agrees with OIG with regard to a finding of a breach of this CIA and orders Walgreens to pay Stipulated Penalties, such Stipulated Penalties shall become due and payable 20 days after the ALJ issues such a decision unless Walgreens requests review of the ALJ decision by the DAB. If the ALJ

decision is properly appealed to the DAB and the DAB upholds the determination of OIG, the Stipulated Penalties shall become due and payable 20 days after the DAB issues its decision.

3. *Exclusion Review.* Notwithstanding any provision of Title 42 of the United States Code or Title 42 of the Code of Federal Regulations, the only issues in a proceeding for exclusion based on a material breach of this CIA shall be whether Walgreens was in material breach of this CIA and, if so, whether:

- a. Walgreens cured such breach within 30 days of its receipt of the Notice of Material Breach; or
- b. the alleged material breach could not have been cured within the 30 day period, but that, during the 30 day period following Walgreens' receipt of the Notice of Material Breach: (i) Walgreens had begun to take action to cure the material breach; (ii) Walgreens pursued such action with due diligence; and (iii) Walgreens provided to OIG a reasonable timetable for curing the material breach.

For purposes of the exclusion herein, exclusion shall take effect only after an ALJ decision favorable to OIG, or, if the ALJ rules for Walgreens, only after a DAB decision in favor of OIG. Walgreens' election of its contractual right to appeal to the DAB shall not abrogate OIG's authority to exclude Walgreens upon the issuance of an ALJ's decision in favor of OIG. If the ALJ sustains the determination of OIG and determines that exclusion is authorized, such exclusion shall take effect 20 days after the ALJ issues such a decision, notwithstanding that Walgreens may request review of the ALJ decision by the DAB. If the DAB finds in favor of OIG after an ALJ decision adverse to OIG, the exclusion shall take effect 20 days after the DAB decision. Walgreens shall waive its right to any notice of such an exclusion if a decision upholding the exclusion is rendered by the ALJ or DAB. If the DAB finds in favor of Walgreens, Walgreens shall be reinstated effective on the date of the original exclusion.

4. *Finality of Decision.* The review by an ALJ or DAB provided for above shall not be considered to be an appeal right arising under any statutes or regulations. Consequently, the parties to this CIA agree that the DAB's decision (or the ALJ's decision if not appealed) shall be considered final for all purposes under this CIA.

## **XI. EFFECTIVE AND BINDING AGREEMENT**

Walgreens and OIG agree as follows:

- A. This CIA shall become final and binding on the date the final signature is obtained on the CIA.
- B. This CIA constitutes the complete agreement between the parties and may not be amended except by written consent of the parties to this CIA.
- C. OIG may agree to a suspension of Walgreens' obligations under this CIA based on a certification by Walgreens that it is no longer performing Covered Functions and it does not have any ownership or control interest, as defined in 42 U.S.C. §1320a-3, in any entity that performs Covered Functions. If Walgreens is relieved of its CIA obligations, Walgreens shall be required to notify OIG in writing at least 30 days in advance if Walgreens plans to resume performing Covered Functions or to obtain an ownership or control interest in any entity that performs Covered Functions. At such time, OIG shall evaluate whether the CIA will be reactivated or modified.
- D. All requirements and remedies set forth in this CIA are in addition to and do not affect (1) Walgreens' responsibility to follow all applicable Federal health care program requirements or (2) the government's right to impose appropriate remedies for failure to follow applicable Federal health care program requirements.
- E. The undersigned Walgreens signatories represent and warrant that they are authorized to execute this CIA. The undersigned OIG signatories represent that they are signing this CIA in their official capacities and that they are authorized to execute this CIA.
- F. This CIA may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same CIA. Electronically-transmitted copies of signatures shall constitute acceptable, binding signatures for purposes of this CIA.

**ON BEHALF OF WALGREENS**

/Richard Ashworth/  
Richard Ashworth, President, Operations  
Walgreens

12/14/2018  
DATE

/Howard J. Young/  
Howard J. Young  
Counsel to Walgreen Co.

12/14/18  
DATE

**ON BEHALF OF THE OFFICE OF INSPECTOR GENERAL  
OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

/Lisa M. Re/  
LISA M. RE  
Assistant Inspector General for Legal Affairs  
Office of Inspector General  
U.S. Department of Health and Human Services

12/14/2018  
DATE

/Keshia B. Thompson/  
KESHIA B. THOMPSON  
Senior Counsel  
Office of Counsel to the Inspector General  
Office of Inspector General  
U.S. Department of Health and Human Services

1/11/2019  
DATE

## APPENDIX A

### INDEPENDENT REVIEW ORGANIZATION

This Appendix contains the requirements relating to the Independent Review Organization (IRO) required by Section III.D of the CIA.

#### A. IRO Engagement

1. Walgreens shall engage an IRO that possesses the qualifications set forth in Paragraph B, below, to perform the responsibilities in Paragraph C, below. The IRO shall conduct the review in a professionally independent and objective fashion, as set forth in Paragraph E. Within 30 days after OIG receives the information identified in Section V.A.7 of the CIA or any additional information submitted by Walgreens in response to a request by OIG, whichever is later, OIG will notify Walgreens if the IRO is unacceptable. Absent notification from OIG that the IRO is unacceptable, Walgreens may continue to engage the IRO.

2. If Walgreens engages a new IRO during the term of the CIA, that IRO must also meet the requirements of this Appendix. If a new IRO is engaged, Walgreens shall submit the information identified in Section V.A.7 of the CIA to OIG within 30 days of engagement of the IRO. Within 30 days after OIG receives this information or any additional information submitted by Walgreens at the request of OIG, whichever is later, OIG will notify Walgreens if the IRO is unacceptable. Absent notification from OIG that the IRO is unacceptable, Walgreens may continue to engage the IRO.

#### B. IRO Qualifications

The IRO shall:

1. assign individuals to conduct the Claims Review who have expertise in the Medicare and state Medicaid program requirements applicable to the retail and specialty pharmacy claims being reviewed;

2. assign individuals to design and select the Claims Review sample who are knowledgeable about the appropriate statistical sampling techniques; and

3. have sufficient staff and resources to conduct the reviews required by the CIA on a timely basis.

C. IRO Responsibilities

The IRO shall:

1. perform each Claims Review in accordance with the specific requirements of the CIA;
2. follow all applicable Medicare and state Medicaid program rules and reimbursement guidelines in making assessments in the Claims Review;
3. request clarification from the appropriate authority (e.g., Medicare contractor), if in doubt of the application of a particular Medicare or state Medicaid program policy or regulation;
4. respond to all OIG inquires in a prompt, objective, and factual manner; and
5. prepare timely, clear, well-written reports that include all the information required by Appendix B to the CIA.

D. Walgreens Responsibilities

Walgreens shall ensure that the IRO has access to all records and personnel necessary to complete the reviews listed in III.D of this CIA and that all records furnished to the IRO are accurate and complete.

E. IRO Independence and Objectivity

The IRO must perform the Claims Review in a professionally independent and objective fashion, as defined in the most recent Government Auditing Standards issued by the U.S. Government Accountability Office.

F. IRO Removal/Termination

1. *Walgreens and IRO.* If Walgreens terminates its IRO or if the IRO withdraws from the engagement during the term of the CIA, Walgreens must submit a notice explaining (a) its reasons for termination of the IRO or (b) the IRO's reasons for its withdrawal to OIG, no later than 30 days after termination or withdrawal. Walgreens must engage a new IRO in accordance with Paragraph A of this Appendix and within 60 days of termination or withdrawal of the IRO.

2. *OIG Removal of IRO.* In the event OIG has reason to believe the IRO does not possess the qualifications described in Paragraph B, is not independent and objective as set forth in Paragraph E, or has failed to carry out its responsibilities as described in



Paragraph C, OIG shall notify Walgreens in writing regarding OIG's basis for determining that the IRO has not met the requirements of this Appendix. Walgreens and the IRO shall have 30 days from the date of OIG's written notice to provide information regarding the IRO's qualifications, independence or performance of its responsibilities in order to resolve the concerns identified by OIG. If, following OIG's review of any information provided by Walgreens or the IRO regarding the IRO, OIG determines that the IRO has not met the requirements of this Appendix, OIG shall notify Walgreens in writing that Walgreens shall be required to engage a new IRO in accordance with Paragraph A of this Appendix. Walgreens must engage a new IRO within 60 days of its receipt of OIG's written notice. The final determination as to whether or not to require Walgreens to engage a new IRO shall be made at the sole discretion of OIG.

## APPENDIX B

### CLAIMS REVIEW

A. Claims Review. The IRO shall perform the Claims Review annually to cover each of the five Reporting Periods. The IRO shall perform all components of each Claims Review.

1. *Definitions*. For the purposes of the Claims Review, the following definitions shall be used:

- a. Overpayment: The amount of money Walgreens has received for any Paid Claim in excess of the amount due and payable under Medicare or any applicable state Medicaid program requirements, as determined by the IRO in connection with the Claims Review performed under this Appendix B.
- b. Paid Claim: A retail or specialty pharmacy claim submitted by Walgreens and for which Walgreens has received reimbursement from the Medicare program or a state Medicaid program.
- c. Population: The Population shall be defined as all Paid Claims during the 12-month period covered by the Claims Review.

2. *Claims Review Sample*. Prior to the end of each Reporting Period, Walgreens shall furnish to the IRO a list that identifies the top 250 Walgreens retail and specialty pharmacy locations based upon amounts received for Paid Claims together with the amounts received for Paid Claims by each of these locations during the Reporting Period (Walgreens Locations). The IRO shall randomly select ten of these Walgreens Locations (Selected Walgreens Locations). Within 45 days prior to the end of each Reporting Period, OIG may identify up to three Walgreens retail and/or specialty pharmacy locations to add to the Selected Walgreens Locations for the Reporting Period. For each Walgreens retail or specialty pharmacy locations added to the Selected Walgreens Locations by OIG, the IRO shall remove one randomly Selected Walgreens Location such that the total Selected Walgreens Locations reviewed each Reporting Period equals ten. The IRO shall randomly select and review a sample of 100 Paid Claims from each of ten Selected Walgreens Locations. Each sample of 100 Paid Claims from a Selected Walgreens Location shall be referred to as a Claims Review Sample for purposes of this Appendix. The Paid Claims for each Claims Review Sample shall be reviewed based on the supporting documentation available at the applicable Selected Walgreens Location or otherwise under Walgreens' control including but not limited to (1) an electronic or hard copy of the prescription, (2) documentation relating to the initiation of a prescription refill (as applicable), (3) documentation of the delivery of the

prescription, as required by law, (4) documentation of any prior authorization(s) as required by law, and applicable Medicare and state Medicaid program requirements to determine whether (1) the prescription drugs furnished by Walgreens were dispensed consistent with and according to a valid underlying prescription, (2) Walgreens maintained appropriate documentation of a valid prescription for each drug dispensed (including any refills), (3) any prior authorization required by the payor was obtained, and (4) the Paid Claim was correctly billed and reimbursed. For each Paid Claim in a Claims Review Sample that results in an Overpayment, the IRO shall review the system(s) and process(es) that generated the Paid Claim and identify any problems or weaknesses that may have resulted in the identified Overpayments. The IRO shall provide its observations and recommendations, if any, on suggested improvements to the system(s) and the process(es) that generated the Paid Claim.

3. *Other Requirements.*

- a. Supplemental Materials. The IRO shall request all documentation and materials required for its review of the Paid Claims in the Claims Review Sample and Walgreens shall furnish such documentation and materials to the IRO prior to the IRO initiating its review of the Claims Review Sample. If the IRO accepts any supplemental documentation or materials from Walgreens after the IRO has completed its initial review of the Claims Review Sample (Supplemental Materials), the IRO shall identify in the Claims Review Report the Supplemental Materials, the date the Supplemental Materials were accepted, and the relative weight the IRO gave to the Supplemental Materials in its review. In addition, the IRO shall include a narrative in the Claims Review Report describing the process by which the Supplemental Materials were accepted and the IRO's reasons for accepting the Supplemental Materials.
- b. Paid Claims without Supporting Documentation. Any Paid Claim for which Walgreens cannot produce any documentation shall be considered an error and the total reimbursement received by Walgreens for such Paid Claim shall be deemed an Overpayment. Replacement sampling for Paid Claims with missing documentation is not permitted.
- c. Use of First Samples Drawn. For the purposes of the Claims Review Sample discussed in this Appendix, the first set of Paid Claims selected shall be used (i.e., it is not permissible to generate more than one list of random samples and then select one for use with the Claims Review Sample).

4. *Repayment of Identified Overpayments.* Walgreens shall repay within 60 days the Overpayment(s) identified by the IRO in the Claims Review Sample, in accordance with the requirements of 42 U.S.C. § 1320a-7k(d) and any applicable regulations and Centers for Medicare and Medicaid Services (CMS) guidance (the “CMS overpayment rule”). If Walgreens determines that the CMS overpayment rule requires that an extrapolated Overpayment be repaid, Walgreens shall repay that amount at the mean point estimate as calculated by the IRO. Walgreens shall make available to OIG all documentation that reflects the refund of the Overpayment(s) to the payor. OIG, in its sole discretion, may refer the findings of the Claims Review Sample (and any related work papers) received from Walgreens to the appropriate Medicare or applicable state Medicaid program contractor for appropriate follow up by the payor.

B. Claims Review Report. The IRO shall prepare a Claims Review Report as described in this Appendix for each Claims Review performed. The following information shall be included in the Claims Review Report.

1. *Claims Review Methodology.*

- a. Claims Review Population. A description of the Population subject to the Claims Review.
- b. Claims Review Objective. A clear statement of the objective intended to be achieved by the Claims Review.
- c. Source of Data. A description of (1) the process used to identify Paid Claims in the Population and (2) the specific documentation relied upon by the IRO when performing the Claims Review (e.g., electronic and hard copy prescriptions, CMS program memoranda (including title and policy number), Medicare and/or State Medicaid manuals or bulletins (including issue and date), other policies, regulations, or directives).
- d. Review Protocol. A narrative description of how the Claims Review was conducted and what was evaluated.
- e. Supplemental Materials. A description of any Supplemental Materials as required by A.3.a., above.

2. *Statistical Sampling Documentation.*

- a. A copy of the printout of the random numbers generated by the “Random Numbers” function of the statistical sampling software used by the IRO.

- b. A description or identification of the statistical sampling software package used by the IRO.
3. *Claims Review Findings.*
- a. Narrative Results.
    - i. A description of Walgreens' billing system(s), including the identification, by position description, of the personnel involved in billing.
    - ii. A description of controls in place at Walgreens to ensure that all prescription drugs billed to Medicare or a state Medicaid program are supported by prescriptions from authorized prescribers and otherwise meet all Medicare or applicable state Medicaid program requirements, including any applicable prior authorization requirements.
    - iii. A narrative explanation of the IRO's findings and supporting rationale (including reasons for errors, patterns noted, etc.) regarding the Claims Review, including the results of the Claims Review Sample.
  - b. Quantitative Results.
    - i. Total number and percentage of instances in which the IRO determined that the Paid Claims submitted by Walgreens were not supported by prescriptions from authorized prescribers or did not otherwise meet all Medicare and applicable state Medicaid requirements and in which such error(s) resulted in an Overpayment to Walgreens.
    - ii. Total dollar amount of all Overpayments in the Claims Review Sample.
    - iii. Total dollar amount of Paid Claims included in the Claims Review Sample.
    - iv. Error Rate in the Claims Review Sample. The Error Rate shall be calculated by dividing the Overpayment in the Claims Review Sample by the total dollar amount associated with the Paid Claims in the Claims Review Sample.

- v. An estimate of the actual Overpayment in the Population at the mean point estimate.
  - vi. A spreadsheet of the Claims Review results that includes the following information for each Paid Claim: Federal health care program billed, beneficiary health insurance claim number, prescription fill date, amount dispensed, National Drug Code (NDC) submitted, NDC reimbursed, allowed amount reimbursed by payor (*e.g.*, Medicare or Medicaid), correct NDC (as determined by the IRO), correct allowed amount (as determined by the IRO), dollar difference between allowed amount reimbursed by payor and the correct allowed amount.
- c. Recommendations. The IRO's report shall include any recommendations for improvements to Walgreens' billing system or to Walgreens' controls for ensuring that all prescription drugs billed to Medicare or a state Medicaid program are supported by prescriptions from authorized prescribers and other appropriate documentation and otherwise meet all Medicare or applicable state Medicaid program requirements, including any applicable prior authorization requirements, based on the findings of each Claims Review.

4. *Credentials*. The names and credentials of the individuals who: (1) designed the statistical sampling procedures and the review methodology utilized for the Claims Review and (2) performed the Claims Review.