

## MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (this “**Agreement**”) is made by and among the Alliance for a Healthier Generation (the “**Alliance**”) and each of the insurance providers (each an “**Insurer**”) and each of the employers (each an “**Employer**”) executing a signature page hereto, and is effective as of the date set forth on the signature page below.

### BACKGROUND

The Alliance is a partnership between the American Heart Association (“**AHA**”) and the William J. Clinton Foundation (the “**Foundation**”), two organizations that have come together to fight one of the nation’s leading health threats – childhood obesity. The Alliance’s mission is to eliminate childhood obesity and to inspire all young Americans to develop lifelong, healthy habits. The goal of the Alliance is to stop the nationwide increase in childhood obesity by 2010 and to empower kids nationwide to make healthy lifestyle choices. The Alliance strives positively to affect the places that can make a difference to a child’s health: homes, schools, restaurants, doctor’s offices and the community.

This Agreement marks the launch of the Alliance Healthcare Initiative which addresses the prevention, assessment and treatment of childhood obesity in clinical settings. The American Medical Association Expert Committee Guidelines for the Assessment, Prevention and Treatment of Child and Adolescent Overweight and Obesity provide the foundation for this approach.

This effort will launch a collaboration between each Insurer (collectively, “**Participating Insurers**”), as well as each Employer (collectively, “**Participating Employers**”) signing this Agreement and certain provider associations (“**Supporting Organizations**”), entering into a separate agreement with respect to their work, to reimburse for childhood obesity prevention and treatment. This marks a first step toward a long term goal guided by a corresponding evaluation to change the status quo by developing a holistic approach to the prevention, assessment and treatment of childhood obesity through multiple avenues including health insurance offerings.

This endeavor represents a landmark event in the prevention and treatment of childhood obesity as it will be the first time children and families have had access to these types of medical benefits in most regions of the country. It will enable healthcare providers to become a more active part of the solution of the childhood obesity epidemic. The Alliance aims for a quarter of those found to be overweight or obese, an estimated 6.2 million children, to have access to the benefit within the first three years of the benefit offering. In Year 1 alone, the Alliance expects 1 million children will have access to this benefit option.

By participating in this effort, Participating Insurers, Participating Employers and Supporting Organizations will lead preventive health and wellness efforts through the introduction of benefits designed to keep future healthcare costs low and improve the overall health and well being of children and families. Participating Insurers and Participating Employers may initially offer the benefit as a pilot program to a critical enough mass of beneficiaries (as determined by each Participating Insurer or Participating Employer in collaboration with the Alliance) to soundly measure health outcomes. Subject to the joint approval of Participating Insurers, Participating Employers and the Alliance, at the end of Year 1, the benefit will be expanded beyond the initial pilot. Additional desired outcomes of this effort include informing the research and science base on what works in addressing, preventing and treating childhood obesity and the acknowledgement of obesity as a primary condition through the recognition of diagnostic codes.

Each Insurer, each Employer and the Alliance wish to support these goals by working with one another as set forth in this Agreement.

1. **Insurer Commitments.** To achieve the goals contemplated by this Agreement, each Insurer agrees to undertake the following:

- a. ***Insurer Reimbursement Benefit*** – Insurer will annually reimburse for a minimum of four (4) follow up visits to a child’s primary care provider or other identified healthcare professional along with at least four (4) visits with a registered dietitian, with each visit subject to a reasonable and customary copay (the “Insurer Reimbursement Benefit”).
- b. ***Minimum Reimbursement Benefit*** – The Insurer Reimbursement Benefit provided by each Participating Insurer shall be outlined in an attached Exhibit A. While the Alliance will seek to engage each Participating Insurer with the hope of providing Insurer Reimbursement Benefits that exceed this threshold, each Participating Insurer agrees to offer Insurer Reimbursement Benefits for at least those children (which, for purposes of this agreement shall mean children ages 3-18) in the eighty-fifth percentile (85%) of BMI for age.
- c. ***Targeted Marketing*** –Insurer agrees to distribute annually at least two targeted communications (e.g. print or electronic newsletters, mailings, advertising, public relations and intranet and internet postings) to all eligible beneficiaries and provider networks to educate and inspire utilization of the benefit.
- d. ***Utilization Targets*** – Utilization will be defined as the number of those eligible for the benefit who use the office visits outlined as part of the benefit. Unique utilization targets have been developed for each Participating Insurer and Employer based upon those eligible within their organization for the benefit. For those with more restrictive eligibility criteria, utilization benchmarks are much more aggressive than in organizations that have broader eligibility criteria. Specific utilization targets for the Insurer are outlined in

Exhibit A. Utilization targets will be revisited at the mid-point of Year 3 once two full years of evaluation data has been collected. Utilization targets may be re-defined based upon the impact of outreach efforts, evaluation findings or third party science findings.

- e. **Data Availability** – Insurer will provide select health outcomes information and cost data for a third party evaluation of this effort, subject to the following general terms:
  - i. All information will be collected and distributed in compliance with HIPAA.
  - ii. Sample measures collected include: BMI, self reports on eating and physical activity and de-identified per patient utilization data.
  - iii. All information will be de-identified for analysis and reported in aggregate form.
  - iv. Outcomes will be analyzed on an annual basis to ensure program effectiveness. The Insurer agrees to work with the Alliance in making ongoing adjustments to this Agreement based on evaluation findings to ensure optimum efficiency and results.
  - v. The Alliance acknowledges the difficulties associated with evaluation and will work with Participating Insurers, Participating Employers and Supporting Organizations to develop mutually agreeable solutions for data collection and data sharing.
  
- f. **Data Sharing** – Subject to anti-trust regulations, if applicable, each Insurer will share de-identified information in aggregate form with other potential Insurers, Employers, Supporting Organizations and/or other project participants. With the permission of Participating Insurers and subject to anti-trust regulations, if applicable, the Alliance will also share de-identified information in aggregate form with other potential Insurers, Employers, Supporting Organizations and/or other project participants.
  
- g. **Press and Outreach Participation** – Schedule permitting, each Participating Insurer will participate in press and public relations efforts with the Alliance regarding the work undertaken in connection with this Agreement. When referencing a specific Insurer in a major media outreach campaign, the Alliance will provide such Insurer with a reasonable opportunity to review and provide feedback regarding their inclusion in the media materials. If mutual agreement cannot be reached, an Insurer may request to be excluded from the media materials.

2. **Employer Commitments.** To achieve the goals contemplated by this Agreement, each Employer agrees to undertake the following:

- a. **Reimbursement Benefit** – Each Employer will work with their respective insurance provider (which in some cases may not be a Participating Insurer) to develop a Reimbursement Benefit that will be made available to the

Participating Employer's insured employees, as set forth in each Participating Employer's respective Exhibit A. The benefit will, at a minimum, annually reimburse for four (4) follow up visits to a child's primary care provider or other identified healthcare professional along with four (4) visits with a registered dietitian, with each visit subject to a reasonable and customary copay. Each Reimbursement Benefit negotiated by an Employer with an insurance provider that is not a Participating Insurer ("Employer Reimbursement Benefit") will be outlined in an attached Exhibit A.

- b. ***Minimum Reimbursement Benefit*** – Any Employer Reimbursement Benefit must also meet the Minimum Reimbursement Benefit outlined in Section 1(b) above.
- c. ***Targeted Marketing*** –Employer agrees to distribute annually at least two targeted communications (e.g. print or electronic newsletters, mailings, advertising, public relations and intranet and internet postings) to all eligible beneficiaries to educate and inspire utilization of the benefit.
- d. ***Utilization Targets*** – Utilization will be defined as the number of those eligible for the benefit who use the office visits outlined as part of the benefit. Unique utilization targets have been developed for each Insurer and Employer based upon those eligible within their organization for the benefit. For those with more restrictive eligibility criteria, utilization benchmarks are much more aggressive than in organizations that have broader eligibility criteria. Specific utilization targets are outlined in Exhibit A for Employers offering an Employer Reimbursement Benefit. Utilization targets will be revisited at the mid-point of Year 3 once two full years of evaluation data has been collected. Utilization targets may be re-defined based upon the impact of outreach efforts, evaluation findings and/or third party science findings.
- e. ***Data Availability*** – Each Employer will provide select health outcomes information and cost data for a third party evaluation of this effort, subject to the following general terms:
  - i. All information will be collected and distributed in compliance with HIPAA.
  - ii. Sample measures collected include: BMI, self reports on eating and physical activity and de-identified per patient utilization data.
  - iii. All information will be de-identified for analysis and reported in aggregate form in a format designated by the Alliance.
  - iv. Outcomes will be analyzed on an annual basis to ensure program effectiveness. The Insurer will be willing to make ongoing adjustments to the Agreement based on evaluation findings to ensure optimum efficiency and results.
  - v. The Alliance acknowledges the difficulties associated with evaluation and will work with Participating Insurers, Participating Employers and Supporting Organizations to develop mutually agreeable solutions for

data collection and data sharing.

- f. **Data Sharing** – Subject to anti-trust regulations, if applicable, each Employer will share de-identified information in aggregate form with other potential Insurers, Employers, Supporting Organizations and/or other project participants. All information will be collected and distributed in compliance with HIPAA. With the permission of Participating Insurers and subject to anti-trust regulations, if applicable, the Alliance will also share de-identified information in aggregate form with other potential Insurers, Employers, Supporting Organizations and/or other project participants.
- g. **Press and Outreach Participation** – Schedules permitting, each Participating Employer will participate in press and public relations efforts with the Alliance regarding the work undertaken in connection with this Agreement. When referencing a specific Employer in a major media outreach campaign, the Alliance will provide such Employer with a reasonable opportunity to review and provide feedback regarding their inclusion in the media materials. If mutual agreement cannot be reached, an Employer may request to be excluded from the media materials.

3. **Alliance Commitments.** To achieve the goals contemplated by this Agreement, the Alliance agrees to undertake the following:

- a. **Announcement Coordination** – In coordination with Participating Insurers, Participating Employers and Supporting Organizations, coordinate public announcement(s) of this Agreement and the work of the parties hereunder.
- b. **Formation of Evaluating Committee** – The Alliance will coordinate and manage the formation and functions of an Evaluation Committee of signatory participants whose functions may include the identification of possible outcome measures, analysis parameters and communications of those outcomes.
- c. **Information and Marketing Outreach** – Create benefit overview and parent education materials for electronic distribution to Participating Insurers, Participating Employers and Supporting Organizations. The parent education materials shall be jointly owned by the organizations of the Alliance, the Clinton Foundation and the American Heart Association.
- d. **Materials Availability** – Materials will be available to all Participating Insurers and Participating Employers for posting on corporate intranets or distribution to employees through HR channels subject to the terms of this agreement.

- e. ***Co-Branding*** Subject to the terms of this agreement, each Participating Insurer and Participating Employer will have the opportunity to utilize the Alliance name and logo for purposes of co-branding, marketing and outreach materials developed by them specifically for the Reimbursement Benefit, in all cases subject to the Alliance’s standard practices and applicable branding guidelines governing such use and provided that each use of the Alliance name and logo shall require the prior written approval of the Alliance.
- f. ***Public Awareness*** – Facilitate public awareness efforts to educate and inspire consumer and provider demand for the Reimbursement Benefits.
- g. ***Media Outreach*** – Leverage current and future Alliance media resources and spokespeople, as appropriate, to raise awareness about the work undertaken in connection with this Agreement and the role of health insurers, employers and providers in combating the childhood obesity epidemic.
- h. ***Data Collection Coordination*** – Subject to funding availability, which the Alliance will use best efforts to secure, coordinate evaluation and data collection efforts with Participating Insurers. Participating Insurers, Participating Employers and Supporting Organizations will commit data collection and analysis resources to support this effort.
- i. ***Third-Party Evaluation Efforts*** – Identify and work with a third party evaluator to aggregate and analyze health outcomes information submitted by all Participating Insurers and work with Participating Insurers to develop solutions to current obstacles around health outcomes data collection. Report evaluation findings to the general public to add to the science base for treatment and prevention options for childhood obesity.
- j. ***Recruitment*** – Take the lead in recruiting additional Insurers, Employers and Supporting Organizations to participate in the work undertaken in connection with this Agreement.

4. **Other Efforts.** The parties to this Agreement may from time to time choose to engage in additional efforts to enhance or support the work contemplated by this Agreement. Such additional efforts shall be separately agreed upon, in writing, by the parties and will be made a part of this Agreement by being attached as an addendum and/or amendment to this Agreement.

5. **Term/Termination** – The term of this Agreement shall commence upon the date of execution by the Alliance and an individual Participating Insurer or Employer, and shall continue until such time as either the Alliance or individual Participating Insurer or Employer provides the other party with not less than ninety (90) days prior written notice of its desire to terminate this Agreement, provided, however, that: (i) termination by either the Alliance or a single Participating Insurer or Employer does not terminate the Agreement as between any other parties (ii) termination shall not discharge any obligations of either party under Sections 5-8 of this

Agreement; and (iii) the Alliance and individual Participating Insurer or Employer may terminate this Agreement if the other party fails to perform its obligations hereunder and such failure to perform is not cured within thirty (30) days following written notice from the complaining party of such failure to perform.

6. Intellectual Property.

a. Each Insurer and Each Employer acknowledge the AHA's ownership of the American Heart Association name, heart-and-torch logo and slogan "Learn and Live" (the "**AHA Marks**"), the Foundation's ownership of the William J. Clinton Foundation name and logos, including images of President Clinton, in any format (the "**Foundation Marks**") and the AHA's and Foundation's joint ownership of the "Alliance for a Healthier Generation" name, "Hugo" logo and kids' movement "Go Healthy" name and related marks (collectively, the "**Alliance Marks**"). The AHA Marks, Foundation Marks and Alliance Marks are collectively referred to herein as the "**Marks.**" This Agreement shall not be construed to grant any Insurer or any Employer any license to use the Marks except in reference to the parties' work as set forth in this Agreement, and in such form and manner as may be approved with the prior written consent of the AHA, the Foundation and/or the Alliance, as the case may be. Any and all requests for use of the Marks, expressly including images or quotes of President Clinton, shall be submitted to the owner thereof and will require the written approval of said owner prior to any such use.

b. The Alliance acknowledges each Insurer's and each Employer's ownership of its name and logo (the "**Participant Marks**"). This Agreement shall not be construed to grant the Alliance, the AHA or the Foundation, any other Insurer or any other Employer any license to use the Participant Marks except in reference to the work as set forth in this Agreement, and in such form and manner as may be approved with the prior written consent of Insurer or Employer, as the case may be. Any and all requests for use of the Participant Marks shall be submitted to the respective Insurer or Employer, as the case may be, and will require written approval prior to any such use.

7. Ownership of Materials.

a. All underlying marks, creative properties or materials (collectively, "**Pre-existing Materials**") used by the Alliance and each Insurer and Employer, respectively, which were created and/or developed by either party prior to the date of this Agreement and used in connection with this Agreement shall not become the property of the other party. Each party represents and warrants to the other that the Pre-existing Materials provided hereunder shall be original and unpublished work, or that it owns all right, title and interest in the Pre-existing Materials, including all copyright in the Pre-existing Materials, and that the Pre-existing Materials contain no defamatory or unlawful matter and will in no way infringe the rights of any third party.

b. All parent education materials and the de-identified aggregate data developed in connection with this agreement shall be jointly owned by the AHA and the Clinton Foundation ("**Alliance Materials**"). All other materials developed in connection with this Agreement by either the Alliance or an Insurer or an Employer shall be the property of the party

creating the materials and such materials may only be used in such form and manner as may be approved in advance and in writing by the owner of such materials. In the event of a dispute regarding the development and ownership of any materials, the parties agree to work together to reach a mutually acceptable agreement regarding the ownership of and right to use such materials.

c. New materials developed in connection with this Agreement that were not developed by one party or the other but are jointly conceived and created (“**Joint Works**”) shall be jointly owned by the parties with the exception of Pre-existing Materials. Neither party may convey or license any rights in or to the Joint Works without the express prior written consent of the other party. Following termination of this Agreement for any reason, either party may use the Joint Works in connection with activities related to work similar to that conducted by the parties hereunder, provided, however, that such party receives the written consent of the other party prior to any use of the Joint Works and provided, further, that any trademark, service mark or other identifier of the other party is first removed from the Joint Works prior to any such use.

## 8. Confidentiality.

a. During the course of this Agreement, the parties may make available to each other certain Confidential Information (as hereinafter defined) or one party may otherwise learn of Confidential Information belonging to the other party. For purposes of this Section 7, "**Confidential Information**" means any and all confidential or proprietary information regarding a party or its business, including, without limitation, its benefit plan members, all products, patents, trademarks, copyrights, trade secrets, processes, techniques, scientific information, computer programs, databases, software, services, research, development, inventions, financial, purchasing, accounting, marketing, and other information, whenever conceived, originated, discovered or developed, concerning any aspect of its business, whether or not in written or tangible form; provided, however, that the term "Confidential Information" shall not include information (i) which is or becomes generally available to the public on a non-confidential basis, including from a third party provided that such third party is not in breach of an obligation of confidentiality with respect to such information, (ii) which was independently developed by a party not otherwise in violation or breach of this Agreement or any other obligation of one party to the other, or (iii) which was rightfully known to a party prior to entering into this Agreement.

b. Except as otherwise provided herein: (i) the parties shall hold in strictest confidence any of the other party's Confidential Information; (ii) the parties shall restrict access to the Confidential Information to those of their personnel with a need to know and engaged in a permitted use of the Confidential Information; (iii) the parties shall not distribute, disclose or convey Confidential Information to any third party; (iv) the parties shall not copy or reproduce any Confidential Information except as reasonably necessary to perform any obligations hereunder; and (v) the parties shall not make use of any Confidential Information for its own benefit or for the benefit of any third party. The foregoing notwithstanding, the parties shall not be in violation of this subsection in the event that a party is legally compelled to disclose any of the Confidential Information, provided that in any such event the disclosing party

will provide the other party with reasonably prompt written notice prior to any such disclosure so that the non-disclosing party may obtain a protective order or other confidential treatment for the Confidential Information, and in the event that a protective order or other remedy is not obtained by the non-disclosing party, the disclosing party will furnish only that portion of the Confidential Information which is legally required to be furnished.

9. Non-Exclusivity. The parties acknowledge and agree that the relationship being created by this Agreement shall be of a “non-exclusive” nature. Accordingly, the parties agree that each shall have the right to enter into such other agreements, contracts, arrangements and understandings of any nature whatsoever, with one or more third parties, whether or not the goods or services to be provided by such third parties are of a kind which are the same or similar to those being provided by either party hereunder. Further, this Agreement shall not be construed as creating any relationship between or endorsement of any partnership existing between the other party and their respective partners.

10. Disclosure. The AHA receives funding primarily from individuals, as well as from foundations and companies, including health insurance companies. However, funding received from health insurance companies does not fund the activities of the Alliance.

**[Signatures appear on the following page]**

Acknowledged and agreed to this \_\_\_\_ day of \_\_\_\_\_, 2008.

**[COMPANY/INSURER]**

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**AMERICAN HEART ASSOCIATION**

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CLINTON FOUNDATION**

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ALLIANCE FOR A HEALTHIER GENERATION**

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Exhibit A**

**Insurer Reimbursement Benefit Descriptions**

(Specific for Each Signatory)